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भारत का राजपत्र
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सं. 03] नई दिल्ली, जनवरी 19—जनवरी 25, 2020, शनिवार/पौष 29—माघ 5, 1941
No. 03] NEW DELHI, JANUARY 19— JANUARY 25, 2020, SATURDAY/PAUSHA 29—MAGHA 5, 1941

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सक
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India (Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 5 दिसम्बर, 2019

का.आ. 95.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, यह घोषणा करती है कि उक्त अधिनियम की धारा 10 की उप-धारा (1) के खण्ड (ग) के उप-खण्ड (i) के उपबंध पंजाब नैशनल बैंक पर लागू नहीं होंगे, जहां तक इसका संबंध पंजाब नैशनल बैंक के प्रबंध निदेशक एवं मुख्य कार्यकारी अधिकारी, श्री चौ. एस. एस. मल्लिकार्जुन राव को दिनांक 18.9.2021 तक की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, पीएनबी हाउसिंग फाइनेंस लिमिटेड और पीएनबी मैटलाइफ इंडिया इंश्योरेंस कंपनी लिमिटेड के बोर्ड में निदेशक के पद पर नामित करने से है।।

[फा. सं. 13/23/2016-बीओ-I]

एस. के. रॉय, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 5th December, 2019

S.O. 95.—In exercise of the powers conferred by sub-section (1) of section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government on the recommendation of the Reserve Bank of India, hereby declare that the provisions of sub-clause (i) of clause (c) of sub-section (1) of section 10 of the said Act shall not apply to Punjab National Bank in relation to the nomination of Shri Ch. S. S. Mallikarjuna Rao, Managing Director and Chief Executive Officer, Punjab National Bank on the Boards of PNB Housing Finance Limited and PNB Metlife India Insurance Company limited as Director, for a period up to 18.9.2021 or until further orders, whichever is earlier.

[F. No. 13/23/2016-BO-I]
S. K. ROY, Under Secy.

नई दिल्ली, 20 दिसम्बर, 2019

का.आ. 96.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से एतदद्वारा, श्री संजीव माहेश्वरी (जन्म तिथि 26.8.1964) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय स्टेट बैंक के केंद्रीय निदेशक मण्डल में अंशकालिक गैर-सरकारी निदेशक के पद पर नियुक्त करती है।

[फा. सं. 6/19/2019-बीओ-I]
एस. के. रॉय, अवर सचिव

New Delhi, the 20th December, 2019

S.O. 96.—In exercise of the powers conferred by clause (d) of section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri Sanjeev Maheshwari (DoB: 26.8.1964) as part-time non-official Director on the Central Board of Directors of State Bank of India, for a period of three years, with effect from the date of notification of his appointment or until further orders, whichever is earlier.

[F. No. 6/19/2019-BO-I]
S. K. ROY, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 9 जनवरी, 2020

का.आ. 97.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 3 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार एतद्वारा भारत सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय के दिनांक 24 जनवरी, 1984 की अधिसूचना संख्या सां.आ. 430 में निम्ननिखित संशोधन करती है, नामत:

2. उक्त अधिसूचना में 'धारा3 के खंड (ड.) के अंतर्गत नामित' शीर्ष में निम्नलिखित जोड़ा जाएगा, नामत:

सदस्य का नाम	पद्धति	प्रतिनिधित्व वाला राज्य	कब से
डॉ. के सतीश कुमार रेड्डी परामर्शदाता लेनोरा इंस्टीट्यूट ऑफ डेंटल साइंस, राजमुंद्री, ईस्ट गोदावरी जिला	नामित	आंध्र प्रदेश	11.12.2019

[फा. सं. वी.12025/206/2019-डी.ई.]
विद्याधर झा, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 9th January, 2020

S.O. 97.— In exercise of the powers conferred under Section 3 of the Dentists Act, 1948 (16 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Health and Family Welfare No. S.O. 430 dated 24th January, 1984, namely:

2. In the said notification under head ''nominated under clause (e) of Section 3", the following shall be inserted therein, namely:

Name of the Member	Mode	State represented	w.e.f
Dr. K. Satheesh Kumar Reddy, Advisor, Lenora Institute of Dental Sciences, Rajahmundry, East Godavari District	Nominated	Andhra Pradesh	11.12.2019

[F. No. V.12025/206/2019-DE]

VIDY ADHAR JHA, Under Secy.

पर्यटन मंत्रालय

नई दिल्ली, 3 जनवरी, 2020

का.आ. 98.—सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और पर्यटन मंत्रालय में भारत सरकार की अधिसूचना, भारत के राजपत्र दिनांक 22 अक्तूबर, 2011 में प्रकाशित दिनांक 11 अक्तूबर, 2011 का.आ. संख्या 2950; भारत के राजपत्र दिनांक 5 दिसंबर, 2009 में प्रकाशित दिनांक 24 नवंबर, 2009 का.आ. संख्या 3259; भारत के राजपत्र दिनांक 17 जनवरी, 2009 में प्रकाशित दिनांक 2 जनवरी, 2009 का.आ. संख्या 87 का अधिक्रमण करते हुए और ऐसे अधिक्रमण से पूर्व, किए गए अथवा किए जाने वाले कार्यों से चूकने से संबंधित को छोड़कर, भारत सरकार एतद्वारा नीचे दी गई तालिका के कॉलम (1) में उल्लिखित अधिकारी को इस अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी होने के लिए सरकार के राजपत्रित अधिकारी के पद के समतुल्य होने के कारण अधिकारी नियुक्त करती है और उक्त तालिका के कॉलम (2) में तदनुरूपी प्रविष्टि में यथा निर्दिष्ट, सरकारी स्थानों की स्थानीय सीमाओं को भी परिभाषित करती है, जिसके संबंध में उक्त सम्पदा अधिकारी, सम्पदा अधिकारी द्वारा अथवा उक्त अधिनियम के अंतर्गत प्रदत्त शक्तियों का प्रयोग करेगा, और अधिरोपित कर्तव्यों का निष्पादन करेगा।

तालिका

अधिकारी का पदनाम (1)	सरकारी स्थान की श्रेणियां और अधिकार क्षेत्र की स्थानीय सीमाएं। (2)
उपाध्यक्ष, मैसर्स भारत पर्यटन विकास निगम लिमिटेड, मुख्यालय, स्कोप कॉम्प्लेक्स, कोर 8, 7 लोदी रोड, नई दिल्ली – 110003	दिल्ली, मध्य प्रदेश, उत्तर प्रदेश, ओडिशा और केंद्र शासित प्रदेश जम्मू एवं कश्मीर में स्थित मैसर्स भारत पर्यटन विकास निगम लिमिटेड की अथवा उसके द्वारा पट्टे पर लिए गए सभी स्थान या परिसंपत्तियां।

[फा. सं. ई.ओ.एन.पी.एस.यू.-6/15/2018-पी.एस.यू.]

मीनाक्षी मेहता, उप महानिदेशक (सार्वजनिक क्षेत्र का उपक्रम)

MINISTRY OF TOURISM

New Delhi, the 3rd January, 2020

S.O. 98.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of unauthorized occupants) Act 1971 (40 of 1971) and in supersession of the Notification of the Government of India in the Ministry of Tourism, S.O. No. 2950 dated 11th October, 2011 published in the Gazette of India dated 22nd October, 2011; S.O. No. 3259 dated 24th November, 2009 published in the Gazette of India dated 5th December, 2009 and S.O. No. 87 dated 2nd January, 2009 published in the Gazette of India dated 17thJanuary, 2009 except as respects things done or omitted to be done before such supersession, the Government of India hereby appoints the officer mentioned in the column (1) of the table below, being the officer equivalent to the rank of gazetted officer of the Government to be the Estate Officer for the purposes of this Act and also defines the local limits of public premises, as specified in the corresponding entry in column (2) of the said table, in respect of which the said estate officer shall exercise the powers conferred, and perform duties imposed, on the Estate Officer by or under the said Act.

TABLE

Designation of the Officer. (1)	Categories of public premises and local limits of the jurisdiction. (2)
Vice President, M/s India Tourism Development Corporation Limited, Head Quarter, Scope Complex, Core 8, 7 Lodi Road, New Delhi - 110003.	All premises or properties belonging to or taken on lease by M/s India Tourism Development Corporation Limited situated in Delhi, Madhya Pradesh, Uttar Pradesh, Odisha and Union Territory of Jammu and Kashmir.

[F. No. EON.PSU-6/15/2018-PSU]

MEENAKSHI MEHTA Dy. Director General (Public Sector Undertaking)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 16 जनवरी, 2020

का.आ. 99—केंद्रीय सरकार, तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उपधारा (3) (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा श्री राजेश अग्रवाल, अतिरिक्त सचिव और वित्तीय सलाहकार, पेट्रोलियम और प्राकृतिक गैस मंत्रालय को 18.12.2019 से 17.12.2021 तक या अगले आदेश होने तक, जो भी पहले हो, तेल उद्योग विकास बोर्ड का सदस्य नियुक्त करती है।

[फा. सं. जी-38011/41/2016-वित्त-I]

पेरिन देवी, निदेशक

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 16th January, 2020

S.O. 99.—In exercise of the Powers conferred by Sub-Section 3(b) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints Sh. Rajesh Aggarwal, Additional Secretary & Financial Adviser, Ministry of Petroleum & Natural Gas as a member of the Oil Industry Development Board w.e.f. 18.12.2019 to 17.12.2021 or until further orders, whichever is earlier.

[F. No. G-38011/41/2016-Fin.I]

PERIN DEVI, Director

नई दिल्ली, 16 जनवरी, 2020

का.आ. 100—केंद्रीय सरकार, तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उपधारा (3) (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा श्री सुभाष चंद्र लाल दास, डीजी, डीजीएच को 31.12.2019 to 30.12.2021 तक या अगले आदेश होने तक, जो भी पहले हो, तेल उद्योग विकास बोर्ड का सदस्य नियुक्त करती है।

[फा. सं. जी-38011/41/2016-वित्त-I]

पेरिन देवी, निदेशक

New Delhi, the 16th January, 2020

S.O. 100.—In exercise of the Powers conferred by Sub-Section 3(a) of Section 3 of the Oil Industry (Development) Act, 1974(47 of 1974), the Central Government hereby appoints Shri Subhash Chandra Lal Das, DG, DGH as a member of the Oil Industry Development Board w.e.f. 31.12.2019 to 30.12.2021 or until further orders, whichever is earlier.

[F. No. G-38011/41/2016-Fin.I]

PERIN DEVI, Director

नई दिल्ली, 17 जनवरी, 2020

का.आ. 101—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार के अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में और पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय, भारत सरकार के का. आ. 1212 दिनांक 24 जून 2019, की अधिसूचना के संशोधन में उक्त अधिनियम के अधीन राजस्थान राज्य के राज्यक्षेत्र के भीतर हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की मुंद्रा दिल्ली पाइपलाइन, आवा-सालावास पाइपलाइन और रेवाडी-कानपुर पाइपलाइन परियोजना के लिए सक्षम अधिकारी के कार्यों का निर्वहन करने के लिए श्री सुनील आर्य, आर.ए.एस., राजस्थान सरकार को प्राधिकृत करती है। यह अधिसूचना की तारीख से लागू होता है ।

[फा. सं. आर-11025(15)/5/2019-ओआर-I/ई-30377]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 17th January, 2020

S.O. 101.—In pursuance of clause (a) of section 2 of the Petroleum Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) and in modification of Notification of the Government of India in Ministry of Petroleum and Natural Gas S.O. No. 1212 dated the 24th June 2019, the Central Government hereby authorizes Mr. Sunil Arya, RAS, Government of Rajasthan to perform the functions of Competent Authority for HPCL's Mundra Delhi Pipeline, Awa Salawas Pipeline and Rewari Kanpur Pipeline under the said Act, within the territory of Rajasthan State. This is applicable from the date of notification.

[F. No. R-11025(15)/5/2019-OR-I/E-30377]

P. SOMAKUMAR, Under Secy.

नई दिल्ली, 17 जनवरी, 2020

का.आ.102—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार के अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क)के अनुसरण में और पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय, भारत सरकार के का.आ. 238 दिनांक 02 फरवरी, 2018, की अधिसूचना के संशोधन में उक्त अधिनियम के अधीन कर्नाटक राज्य के राज्य क्षेत्र के भीतर हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की मंगलूर-हसन-मैसूर-सोलूर एलपीजी पाइपलाइन

परियोजना, के लिए सक्षम अधिकारी और विशेष भूमि अर्जन अधिकारी के कार्यों का निर्वहन करने केलिए डा. शिवा कुमार एच आर, केएएस, कर्नाटक सरकार को प्राधिकृत करती है। यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा. सं. आर-11025(15)/2/2018-ओआर-I/ई-22573]

पी. सोमाकुमार, अवर सचिव

New Delhi, the 17th January, 2020

S.O. 102.—In pursuance of clause (a) of section 2 of the Petroleum Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) and in modification of Notification of the Government of India, Ministry of Petroleum & Natural Gas, S.O. No. 238 dated 02nd February, 2018, the Central Government hereby authorizes Dr. Shiva Kumar H.R, KAS, Government of Karnataka to perform the functions of Competent Authority and Special Land Acquisition Officer for Hindustan Petroleum Corporation Limited's Mangalore – Hassan – Solur LPG Pipeline Project under the said Act, within the territory of Karnataka. This is effective from the date of Notification.

[F. No. R-11025(15)/2/2018-OR-I/E-22573]

P. SOMAKUMAR, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 15 जनवरी, 2020

का. आ. 103.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स दिल्ली इंटरनेशनल एयरपोर्ट प्राइवेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, दिल्ली के पंचाट (संदर्भ संख्या 04/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.01.2020 को प्राप्त हुआ था।

[सं. एल-11012/02/2016-आईआर (सीएम-I)]

एस. सी. राय, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 15th January, 2020

S.O. 103.— In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi (Ref. No. 04/2016) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Delhi International Airport private Limited and their workmen, which was received by the Central Government on 13.01.2020.

[No. L-11012/02/2016-IR(CM-I)]

S. C. RAY, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2: NEW DELHI

PRESENT : SMT. PRANITA MOHANTY, Presiding Officer, CGIT-cum-Labour Court-II, New Delhi

INDUSTRIAL DISPUTE CASE No. 04/2016

Date of Passing Award : 18th December, 2019

Shri Sunil Kumar ,
s/o. Shri Ram Chabila,
r/o. D-2 Sugar Mill Colony,
Jhanj-Khurd,
Jind, Haryana 126102. …Workman/Claimant

Versus

1. The Management of,
M/s. Delhi International Airport Pvt. Ltd.
New Udan Bhawan, IGI Airport,
Terminal 3 ,
New Delhi 110037.

2. The Management of,
M/s. Delite Systems Engineering (I) Pvt. Ltd.
A-4/271, Gali No. 2, above Bagga Link,
Mahipalpur Extn., N.H-8
New Delhi 110037. …Managements

Appearances :-

None : For the Workman

Shri Manish Sehrawat, A/R : For the Management No.1

Ms. Usha Nandini, A/R : For the Management No. 2

AWARD

This Award shall decide a reference which was made to this Tribunal by the Ministry of Labour, Government of India vide letter No.L-11012/02/2016-IR(CM-1) dated 14.01.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short "the Act") for adjudication of an industrial dispute, terms of which are as under:

'Whether the action of Management of Delite Systems Engineering (I) Pvt. Ltd., in not allowing the workman Shri Sunil Kumar s/o. Shri Ram Chabila, on his duties w.e.f. 31.12.2014 can be construed as illegal termination ? If yes, what relief the workman concerned is entitled to ?'

2. Notices were issued to both parties. The claimant/ workman filed statement of claim with the averments inter-alia that Management No.1 is a principal employer and operator as per terms of OMDA (Operation Maintenance and Development Agreement) entered into between the Management of Airport Authority of India and Management No.1. As per agreement, the Management No.1 has got same powers as entrusted to Airport Authority of India. The operation and maintenance of the airport is a perennial nature of job of Management No.1 but to deprive the workers from their rights of regular job, wages and benefits equivalent to the regular workers, it has engaged more than 200 contractors for the said job and thus, exploiting the workers. The claimant/workman who is an ITI Diploma Holder in electrical, was initially employed by Management No.1 as electrician w.e.f. 04.07.2011 and put up on the rolls of Management No.2 as a contractual worker, without issuing any appointment letter. He was promoted to the post of Electrical Engineer w.e.f. 1/3/2013 without any promotion letter. He had been performing his duties sincerely & honestly and his service record was unblemished. His last drawn wages were Rs.11414/- per month. The Management was not maintaining proper service record of the workers and was depriving the workers of statutory benefits, permanent job, equal wages and other benefits, privileges like the workers of DIAL. The workman and other workers joined IGIA Aerobridges Workers' Union and served a demand notice upon the Management for formation of pay-scale, annual increment, adhoc wages, HRA and other allowances. Union of the workman vide application dated 12/4/2014 also requested the Management to recognize five workers including the workman/claimant being office bearer of the Union, as "Protected workman" for the year 2013-14. As the Management did not respond positively, an application dated 20/5/2014 was filed before Asstt. Labour Commissioner, New Delhi for declaration of protected workmen. Management No.2 in connivance with Management NO.1 started calling the workers one by one in its office to obtain signatures on back dated appointment letter, mentioning therein unreasonable and uncalled for service conditions & incorrect designation i.e. lowest to the nature of job being performed by the workers. In this course of action, the Management called the claimant/workman pm 2/12/2014 in its office and asked the workman to sign the said appointment letter on dotted line, without reading it, wherein the Management mentioned his lowest designation as "Assistant Electrician", to which the workman forcefully objected and on this objection, the Management denied him duty w.e.f. 2/12/2014. The workman sent a letter dated 5/12/2014 to the Management for denial of duty and on receipt of the said letter, the Management No.2 called the workman in its office on 6/12/2014 and obtained his signatures on back dated appointment letter dated 4/7/2011 under duress and compulsion. On 8/12/2014 the Management out of prejudice and ill will towards the Union, issued notice of discontinuation of services of the workman/claimant, amounting to termination of his services w.e.f. 31/12/2014 on the false ground that agreement between the Management and DCSI stands cancelled. On 13/1/2015 the workman protested against illegal termination of his services and demanded reinstatement into service with full back wages. Having no

response from the Management to the demand notice, the workman filed a complaint under Section 33-A of the Act before the ALC/Conciliation Officer (Central), New Delhi but the conciliation proceedings failed. It is pleaded that the workman is unemployed since the day of his illegal and wrongful termination from services, as he could not get any job despite his best efforts. The workman has prayed for declaring the termination order dated 8/12/2014 of Management No.2 as illegal & unfair and for his reinstatement with continuity of service, full back wages and consequential benefits .

3. Management No.1 DIAL filed its written statement, submitting that the workman was never appointed by Management No.1. Rather the workman/claimant was appointed by the Management No.2 and he was under direct control of Management No.2 in whose favour a license agreement dated 5/1/2009 was granted by Management No.1. Prayer has been made for dismissal of claim petition.

4. Management No.2 M/s Delite Systems Engineering (I) Pvt. Ltd. resisted the claim of the workman, by filing written statement and took preliminary objections on the grounds inter alia that the statement of claim has been made with an ulterior motives to harass the Management. It is alleged that in response to letter dated 12/4/2014 of IGIA Aerobridge Workers Union for declaring the workmen as "Protected workmen", the Management No.2 had sent a reply to the said Union on 25/4/2014, thereby requesting the said Union to give proof of membership signed by the workmen with the Union, before recognition of the Union and the workers as "Protected workmen". Though on 20/5/2014 the said Union filed an application under Section 33 (4) before ALC for declaration of protected workmen, however on 12/6/2014 Shri Mayaram (Vice President of the Union) sent a demand notice dated 12/6/2014 regarding pay scale and leave details. The said demand notice was duly replied by the Management vide reply dated 18/6/2014, thereby again requested the Union for providing the proof of membership of the workers, so as to start discussion with the Union to resolve the grievances, if any, of the workmen. Even the Management sent a detailed explanation to the ALC regarding formation of the Union and on the issue of "protected workmen". On 8/12/2014 the Management sent a letter to the claimant, informing him about the termination of contractual agreement with principal employer and about automatic discontinuity of his services w.e.f. 31/12/2014. On 2/1/2015 the Management had prepared statement of full & final settlement of all the workmen and sent a letter dated 9/1/2015 to the claimant/workman to collect his full & final dues but the workman failed to collect the same. Denying the averments of the workman regarding deprivation of legal facilities/benefits, it is alleged that there is no illegality on the part of the Management as it had sent letters to all the employees regarding termination of the agreement/contract. It is also alleged that claim of the workman is totally false and baseless. Prayer has been made for rejection of the claim with costs.

5. The claimant filed rejoinder to the written statement of Management No.2, whereby he reiterated his own case as set up in the claim petition and denied the allegations of the Management No.2.

6. On the pleadings of the parties, following issues were framed by the learned Predecessor of this Tribunal on 15/5/2018 and claimant/workman was directed to lead his evidence :-

1) Whether the claim is not legally tenable in view of the various preliminary objections ?
2) In terms of reference.

7. Perusal of the record shows that despite number of opportunities granted to the workman/claimant to adduce evidence in support his case regarding his engagement/employment as well as illegal termination of his services by the Management of Delite Systems Engineering (I) Pvt. Ltd., he did not lead any evidence for the reasons best known to him. It is a matter of record that the claimant had opted not to participate in the proceedings from 15/5/2019 onwards. Ultimately this Tribunal was left with no option but to close his evidence vide order dated 10/12/2019. Since the claimant himself did not adduce any oral or documentary evidence to prove his case, A/R for the Management chose not to lead any evidence.

8. At the outset it is mentioned that onus was upon the claimant/workman to prove that his services were illegally & unjustifiably terminated by Management No.2 and that he was not gainfully employed after alleged termination of his services. The workman/claimant has failed to discharge the onus. In view of the fact that the claimant has not led any evidence in support of his case, this Tribunal is constrained to pass "No Dispute Award" in the matter. Award is passed accordingly.

PRANITA MOHANTY, Presiding Officer

18th December, 2019

नई दिल्ली, 15 जनवरी, 2020

का. आ. 104.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सऊदी अरब एयरलाइंस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 59/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2020 को प्राप्त हुआ था।

[सं. एल-11012/31/2013-आईआर (सीएम-I)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 15th January, 2020

S.O. 104.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai (Ref. No. 59/2013) as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of M/s. Saudi Arabian Airlines and their workmen, which was received by the Central Government on 14.01.2020.

[No. L-11012/31/2013-IR (CM-I)]

S. C. RAY, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. Deshpande**,** Presiding Officer

REFERENCE NO. CGIT-2/ 59 of 2013

EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/S. SAUDI ARABIAN AIRLINES

The General Manager – Pax Sales & Service,
Asia & Australia,
Saudi Arabian Airlines,
41 & 42, Maker Chambers - VI, 220,
Nariman Point, MUMBAI – 400 021.

AND

THEIR WORKMEN

The General Secretary,
Saudi Arabian Airlines Employees Association,
Flat No.4, Turner House, St. Sebastian Cross Road,
Bandra West, Mumbai.
MUMBAI – 400 050.

APPEARANCES:

FOR THE EMPLOYER : Mr. Abhay Kulkarni, Advocate

FOR THE WORKMEN : Mr. Iqbal Siddique, Advocate

Mumbai, dated the 12th December, 2019

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour& Employment, New Delhi vide its order No. L-11012/31/2013 – IR (CM-I) dated 18.10.2013. The terms of reference given in the schedule are as follows :

> "Whether the action of the management of M/s. Saudi Arabian Airlines, Mumbai in termination of services by way of retrenchment of Mr. Rizwanakhtar M. Patel, Mr. Mohd. Naeem A. Buddha and Mr. Umesh M. Parulekar, Security Controllers vide letter dated 04.07.2013 is legal and justified ? To what relief the workmen concerned are entitled to ?''

2. After the receipt of the reference, both the parties were served with the notices. They appeared through their respective representatives.

3. The second party union has filed statement of claim Ex.6. According to the second party union, the members of second party union vide their letter dt. 11.7.13 authorised the second party union to espouse their cause and to represent them before first party employer and other concerned authorities to resolve their grievance against first party employer.

4. It is the case of the second party union that the members of second party union are employed with first party as Security Controllers since last 18 years. Workmen listed at Sr. No. 2 & 3 in Annexure – B namely Mr. Umesh M. Parulekar and Mr. Mohd. Naeem A. Buddha are protected workmen as provided u/s. 33 (3) of I.D. Act being the office bearers of the second party union which is a registered union under Trade Union Act. Presently strength of 1st party at its Mumbai Airport Station is 48 including technical, supervisory, administrative, security staff. The number of employees working with first party throughout rest of the locations in India is 56. The said number is arrived at after 43 employees from various depts. opted for voluntarily severance scheme which was launched by the first party in the month of April '13 and after termination of 10 more workmen in the of July '13. Thus the total employees strength of the first party in preceding 12 months of floating voluntarily severance scheme was more than 100.

5. It is thus case of the second party union that the concerned employees are employed with the first party being permanent security staff who have been handling with the security functions at Mumbai station since 1996. They are trained employees and holding certification of aviation security training conducted by Bureau of Civil Aviation Security, Ministry of Civil Aviation, Govt. of India and are qualified to handle security function of first party. These workmen since last so many years performed their duties carefully and diligently and no incidence of negligence or otherwise took place at the work place in respect of security system. There had been no complaints against them regarding functioning of their duties. Their service record has been clean & unblemished. Management has issued letter of appreciation to the concerned workmen for their excellent performances.

6. According to the second party union vide notice dt. 30.4.13 the first party announced voluntarily severance scheme and called for the participation of the employees. The said scheme remained in force upto 23.5.13. After displaying the said notice dt. 30.4.13 one Mr. Yasmeen Menon, HR Manager of the first party called a meeting on 1.5.13 and informed all the employees that first party is planning to introduce an outside ground handling agent to handle the security functions. In the said meeting the employees were made to understand that if sufficient number of employees would not opt for the said scheme then they would be facing retrenchment. Therefore second party union has served copy of demand notice dt. 10.5.13 on the first party. Vide their demand notice, second party union had made it clear to the first party that they should not induct any person from 3rd party or agency for any work or operation whatsoever carried out by the permanent employees. In the said notice second party union also brought to the attention of first party and undertaking given by it before Industrial court, Mumbai in UPL No. 217 / 1989 that in the said undertaking first party states that no employees would be transferred outside Bombay without their consent and that no employee would be retrenched if company engages GSA.

7. According to the second party union, thereafter on 16.5.13 they filed conciliation application along with justification under the provisions of I.D. Act, 1947 before ALC Mumbai. By the said application, the second party union requested the ALC to intervene in the matter and resolve the dispute at his end. Dy. CLC issued notice dt. 10.6.13 calling upon the first party to attend the said proceedings and file their reply in respect of dispute raised by the second party union. In response to the said notice the first party appeared and filed their say dt. 18.6.13 to the said conciliation proceedings.

8. It is then case of the second party union that in the meeting dt. 20.6.13 in the office of conciliation officer, HR Manager of the first party disclosed that M/s. Saudi Arabian Airlines is closing the security function dept. and out-sourcing the said function to M/s. Jet Airways India Ltd. Apprehending that the first party might resort to retrenchment immediately the second party union sent notice dt. 20.6.13 through their lawyer to M/s. Jet Airways India Ltd. calling upon them to refrain from entering into any agreement with the first party for out-sourcing of security function at Mumbai airport. However, concerned workmen received termination letter dt. 4.7.13 from the first party stating therein that due to substantial reduction in the workload of security activities especially in cargo section for a long period of time they have no alternative but to reduce the strength of security staff. Consequently they are constrained to terminate the services by way of retrenchment w.e.f. closing hours of 5.7.13 which they hereby do.

9. After receipt of the said termination letters second party union sent e-mail dt. 5.7.13 to the first party and sought clarification in respect of the same. First party send their reply dt. 12.7.13 to the said e-mail mentioning therein that the subject matter of out-sourcing of cargo security has no relevance at all over the retrenchment. Thereafter the first party deposited all the balance outstanding dues directly in the bank a/cs. of the retrenched employees on the same day of termination of their services. However, the members of second party union have returned their amount so deposited in their salary a/c. vide their letter dt. 15.7.13. The first party acknowledged receipt of cheques returned by the second party union. However, the first party has not honoured those cheques in their a/cs. and on the contrary returned the cheques to the advocate of the second party union and their workmen.

10. According to the second party union, being aggrieved by the impugned termination letters dt. 4.7.13 issued by the first party, second party union along with its terminated workmen approached the Hon'ble H.C. by filing WP No. 1746 / 2013 praying for setting aside of the impugned termination letter dt. 4.7.13. During the pendency of writ petition, counsel appearing on behalf of the conciliation officer and union of India, Ministry of Labour & Employment made a statement before the Hon'ble H.C. that the dispute has been referred for adjudication u/s. 10 (1) of I.D. Act. As such the dispute is referred to this tribunal u/s. 10 (1) of I.D. Act regarding termination of 3 workmen as per order of the Hon'ble H.C. dt. 23.10.13.

11. It is thus case of the concerned workmen that the said action of the first party of terminating the services of the second party workmen by way of retrenchment is illegal, unjustified, malafide, arbitrary and deserved to be quashed & set aside. They are therefore asking that concerned workmen may be reinstated with full back wages and continuity of service from the date of illegal termination with consequential benefits.

12. It is thus case of the concerned workmen that Ministry of Civil Aviation, Govt. of India mandates deployment strength of 18 security staff. As such strength of 18 security staff is mandatory to perform security functions before arriving of the aircraft, during parking of the aircraft and after departure of the aircraft. Such mandatory strength of the security staff is also required by any airline for approval of his security programme from the BCAS. Prior to the announcement of the scheme, 5 security staff got separated from the first party thereby reducing the strength of the staff to 13. Out of such reduced strength of 13, the first party transferred 2 security staff to Traffic Dept. thereby further reducing the strength of security staff to 11. Therefore on the day of termination of the workmen the total number of security staff on the roll of the first party was 11 whereas the workload of the aircraft remained unchanged and infact the aircraft workload increased by 42 aircrafts for Haj Pilgrimage after termination of 3 workers on the ground of reduction of workload. As such the workload of security activities increased after commencement of scheme and each security staff was infact performing more responsibilities due to increased workload. Therefore the contention of the first party that they have terminated the workmen due to reduction in workload security activities is false.

13. It is the case of the concerned workmen that their termination is carried out during the pendency of conciliation proceedings. It is unlawful and against the provisions of section 33 of I.D. Act. Since no approval of competent authority was sought during the conciliation proceedings by the first party to terminate the concerned workmen, such termination is against the law. The said termination is gross violation of Chapter – V B of I.D. Act. 3 months notice in writing had not been given to the concerned workmen and as such the prior permission of the appropriate government has not been obtained. Therefore conditions to be fulfilled by the employer as per section 25 N sub para 7 of 25 N has not been complied and as such retrenchment is illegal. Such termination is in violation of section 9A of I.D. Act since 21 days notice of the change as contemplated u/s. 9A of I.D. Act has not been given. Second party union is therefore asking for giving directions to the first party to reinstate the concerned workmen to their original post with full back wages and continuity of service from the date of termination with consequential benefits.

14. By filing written statement Ex.25, the first party has resisted claim of the concerned workmen on the ground that in view of closure of security dept. declared and effected by the first party w.e.f. 16.9.13, no industrial dispute claiming reinstatement or reemployment or any other kinds of reliefs can exist and survive against the first party.

15. According to the first party it had 68 employees at Mumbai airport including 18 security staff for performing security functions relating to flight operation at Mumbai International airport. Govt. of India through its Ministry of Civil Aviation came out with certain circulars & notifications in respect of ground handling activities by foreign airlines. Para – 4.1 of the said circular / document known as DGCAAIC 7/7 provides that BCAS must impose restrictions as necessary in this behalf on grounds of security. In para – 4.2 of the said circular, it is provided that all concerned agencies as specified in para – 2 shall be required to follow the instructions issued by BCAS as contained in the circular No. 4/7 dated 14.2.07 or as may be altered, substituted, modified or amended from time to time. The said circular No. 4/7 lays down various instructions relating to the development and induction of ground handling agencies at the airports to be implemented by all concerned agencies / depts.

16. By notice dt. 30.4.13 the first party declared voluntarily severance scheme inviting application from eligible employees with the time limit expiring on 15.5.13. Though the members of the employees submitted applications opting for the said scheme, many had some or other queries and sought meeting with the G.M. of the first party which took place on 14.5.13. In the meeting G.M. answered all the queries. Thereafter the employees requested for extension of time as they wanted to put their applications opting for said scheme and the time limit was extended to 23.5.13. In all about 57 out of 59 eligible employees opted for the said scheme.

17. It is then case of the first party that on or about 31.5.13 first party received the notice from advocate Muktar Khan informing that 10 security staff who had already submitted their applications opting for the said scheme wanted to withdraw the same. In view of this withdrawal the first party did not process their applications. In the mean time 9 employees who were not eligible to opt for the said scheme as they were retiring during next 3 years, requested that they may be given early retirement with the benefit of their full wages for the left out period. The first party considered their request and granted the same.

18. In the mean while Mr. Rajesh Koli who had withdrawn his application through advocate Muktar Khan approached the first party and requested that his application for the said scheme may be considered & approved. The first party approved his application. The first party has also approved the applications of 32 employees who had opted voluntarily severance scheme. Therefore in all 42 employees were relieved from the services on 30.6.13. All of them were paid their respective benefits arising out of their opting the said scheme or early retirement. They were also paid gratuity and other legal dues. The first party displayed the list of the employees who were on the roll from 1.7.13 giving their details with a view to inform all the concerned as to who are continuing in service, their seniority, responsibilities and to avoid necessary confusion especially on security matters.

19. It is then case of the first party that after relieving the employees as per the said scheme and the early retirement and transfer of 2 staff to the traffic dept. the strength of security staff was in excess than required. Therefore by notice of termination dt. 4.7.13, 3 security staff were retrenched from service w.e.f. 5.7.13 after complying all requirements namely notice with reason, payment of notice pay, retrenchment compensation, seniority etc. All of them received notice, notice pay, retrenchment compensation before the termination became effective.

20. It is then case of the first party that on 2nd to 5th April '13 a team of officers from BCAS had visited the first party and conducted security audit. They have also conducted security inspection and pointed out that the first party security programme is not approved and that the first party is performing the self handling of security functions except cargo which was being done by A.I. security which is in violation of AVSEC order dated 5/2009. BCAS are further directed to take coercive steps within the period of 30 days with intimation to BCAS with a caution. The first party could not avoid or disobey the said directions and had to take initiative to comply with those directions. In view of those directions, instructions and circulars of civil aviation ministry, the first party had to engage an Indian craft operator namely M/s. Jet Airways India Ltd. having international operations by a contract to handle security functions as foreign airlines are not allowed to self handling security functions. Following that first party finally closed down the security dept. at Mumbai International airport w.e.f. 16.9.13. The first party paid the legal dues arising out of said closure to all the employees who were effected by the said closure. The said closure is final and irrevocable and the first party has no security section / dept. in Mumbai.

21. According to the first party, it has not engaged any security staff as the same is not allowed by the Govt. of India. It has about 16 employees in Mumbai airport station they include traffic, supervisory and administrative staff. In the matter of ground handling, it is known to all employees about the restrictions imposed on foreign airlines and therefore the retrenchment was effected as there was no other option as the first party thought of continuing the employees as long as it was possible but the nature & circumstances of business activities warranted retrenchment. Therefore the notice dt. 4.7.13 with reasons for retrenchment was issued to the concerned 3 employees and also complied with all the statutory requirements in the manner of retrenchment and therefore the retrenchment was legal & proper.

22. It is also a case of the first party that there was substantial reduction in the security activities especially the cargo section. In an endevour to adhere with the directions of the Ministry of Civil Aviation of Govt. of India the security functions in cargo section had to be with aircraft operator namely A.I. Therefore the security staff of the first party became redundant. Nevertheless the first party continued them in service. Even after the said scheme and transfer, the strength of the security staff was in excess than required. The first party could not utilize all the security staff to the higher level of efficiency as there was no enough work for all of them. Therefore it has retrenched the 3 workmen due to reduction in the work load of security activities. The said retrenchment was not the matter connected with the dispute pending before conciliation officer since the dispute that was pending in conciliation was in regard to induction of the third party for any operation which was carried out by permanent employees. The reason for retrenchment was reduction in the workload and therefore the retrenchment was not unlawful or in violation of provisions of section 33 of I.D. Act.

23. On these premise, the first party has sought the rejection of the reference.

24. Following issues are framed at Ex.11. I reproduce the issues along with my findings thereon for the reasons to follow:

Sr. No.	Issue	Findings
1	Whether the action of the management in terminating the services by way of retrenchment of Mr. Rizwanakhtar M. Patel & two Ors., Security Controllers is legal, just and proper ?	No
2.	Whether the reference is maintainable since the security unit is closed ?	Reference is maintainable
3.	What relief the workmen are entitled to ?	As per final order
4.	What order ?	As per final order

Reasons

Issue No. 1 & 2.

25. So far contentions go, it is the contention of the second party union that the concerned workmen are employed with the first party as Security Controller since 1996. They are working as Security Controller since last 18 years. However, it appears that on 4.7.13 their services came to be retrenched due to substantial reduction in workload of security activities especially in cargo section for a long period of time and therefore first party had no other alternative but to reduce the strength of their security staff.

26. In this respect if we see the evidence of Adil Khan who is working as Executive Customer Service representative – BOM with M/s. Saudi Arabian Airlines, it appears that according to him the concerned workmen who were performing the security functions were retrenched because of mandatory bar imposed by the authorities upon self handling of the security functions by M/s. Saudi Arabian Airlines and the bar on self handling security functions resulted in close down the security dept. for want of permission to self handling security.

27. For it is explicit, from his evidence that since no work was available for all the security personnel the company had no alternative but to sever employee – employer relationship between company and security personnel and therefore the company introduced voluntarily severance scheme dated 1.5.13 for all Mumbai station staff in traffic and security depts. But since the concerned workmen did not opt for the voluntarily severance scheme, they could not be retained in the circumstances and hence company retrenched them. In view of this it is to be seen whether the first party establishes whether there was substantial reduction in the work of security activities and that security dept. is closed down w.e.f. 16.7.13.

28. From the evidence on record, it is clear that on 4.7.13 the first party has scheduled operation of two flights daily to and fro Mumbai to Saudi Arabia and that there was requirement of security staff for one morning and one evening flight shift. At the time of retrenchment, it was weekly 14 flights. As a matter of fact, the first party entered into agreement with the ground handling agency M/s. Jet Airways India Ltd. on 16.9.13 for outsourcing of per flight per shift 9 security staff which is excluding cargo security being handled by AI staff. As a matter of fact, after 4.7.13, the first party is continuing with his business with security functions being handled by their own whole time employees.

29. In view of that it can be said that on the date of retrenchment i.e. on 4.7.13 there was no substantial reduction in work load of security activities but on the contrary there was increase in work load of security activities in cargo section and the first party had shortage of security staff particularly it handed over the cargo security functions to M/s. Air India in 2012.

30. This fact is explicit from Ex.9 Page. 66. This is an email from G.M. – Asia & Australia of first party dt. 11.7.13 to the second party stating therein that the subject matter of outsourcing the cargo security has no relevance at all over the retrenchment. Not only that but the first party statement before the conciliation officer vide their reply dt. 24.7.13 states that in the year 2010 they appointed GSA to carry out subsidiary estt. known as M/s. Saudi Airlines Cargo Company and the GSA thus appointed, carried out all kinds of cargo related activities in India. This is explicit from Ex.27 which is at page 141. Even there is statement of the first party on record to show that the volume of cargo business was increased and the first party found that there is shortage of security staff and also SACC was not compensating for security services provided by Saudia.

31. That apart the fact remains that after retrenchment the strength of security staff with the first party at Chatrapati Shivaji International Airport was left to 5 per flight as there were only 11 security staff remaining at the airport. There was requirement of security staff for one morning and one evening flight shift and therefore first party entered into agreement with M/s. Jet Airways India Ltd. on 16.9.13 for outsourcing per flight per shift 9 security staff which is excluding cargo security being handled by A.I. staff. So by retrenchment of the concerned workman, the strength of the first party security staff at the airport was short of 4 for each flight rather than excess. This action shows that there was no reduction in the work load of security activities or that the staff was excess in number.

32. Learned Counsel for the concerned workmen submitted that the employer shall prepare list of all workmen in particular category from which retrenchment is contemplated, arrange it according to seniority of their service in that category and copy thereof is to be pasted on the notice board in a conspicuous place in the premises of industrial estt. atleast 7 days before the actual date of retrenchment. No such list was prepared and therefore the first party violated the rules. Submission is also to the effect that the seniority list dt. 30.6.13 put up by the first party has violated the mandatory rule of last-cum-first-go in the retrenchment of the concerned workman since the retrenched 3 security controllers are senior to many other employees shown on the said seniority. As such junior employees have been retained by the first party without any specific reasons, qualifications and justifications.

33. In this respect, Learned Counsel for the first party submitted that the concerned workmen has to restrict its case of seniority to security dept. only and not their seniority from all depts. and therefore the said averment is misconceived.

34. It is not possible to accept the submission of the Learned Counsel for the first party especially when Rule 77 mandates that employer shall prepare the list of all workmen in particular category from which retrenchment is contemplated and then principle last-cum-first-go must be followed. Burden is on the employer i.e. on the first party to prove this fact but there is no evidence in respect of the same from the employer which leads to the conclusion that no such mandate was followed while retrenching the services of the concerned workmen. Even it is admitted by the first party that the company has recruited new employees in other depts. as well as in security dept. at other stations. Admittedly fresh recruitment has been made after the retrenchment of concerned workmen on 4.7.13 without displaying any notice in this regard or giving intimation to the retrenched employees as mandated by section 25 H of I.D. Act & Rule 78 of I.D. Act. This is explicit from Ex.29 at page. 4. No doubt this is the list showing the names of the employees on the P.F's roll of the first party after 4.7.13 showing that the company has recruited new employees in other depts. as well as security dept. That shows the violation of mandatory provisions of section 25 H of I.D. Act by the first party company.

35. In this respect, it is the submission of Learned Counsel for the first party that even if such new appointments of security personnel are made but those appointments are admittedly at other stations wherein there is no ban on self handling of security functions and therefore there is no violation of section 25 H of I.D. Act. This submission is other way round.

36. I say so because in his oral testimony MW-1 Mr. Adil Khan stated that there is no specific order from BCAS to close down the security dept. Ex.25 is the reply given to RTI query obtained by second party and in response to RTI query on behalf of the second party, Govt. of India / BCAS has replied vide letter No. CAS – 7 (35)/2010 dt. 26.9.13 that no direction has been given to M/s.SAA to close down its security dept. It is thus clear that there is no specific directions from BCAS to the first party to close down its security dept. or that there was ban on self handling security functions due to directions of BCAS.

37. Realising this difficulty, the Learned Counsel for the first party submitted that the concerned workmen came to be retrenched due to circumstances beyond the control of the company as BCAS exercising the powers vested in it imposed ban upon self handling of security functions by foreign airlines. The BCAS repeatedly rejected the security programme of the company till the time it was self handling security functions. The BCAS even issued warning against the company for continuing to self handling security functions. Therefore as per mandatory directions of BCAS the company had no other option but to engage M/s. Jet Airways India Ltd. which was one of the approved agencies for handling the security functions. So on account of said ban the company had no alternative but to retrench the security personnel.

38. In this respect it is also a case of the first party that it was necessary for SAA to get their security programme approved by BCAS from time to time. On 9.5.12 Mr. Umesh Parulekar one of the workman concerned was sent for attending security programme meeting with officials of BCAS at Delhi for obtaining approval of security programme of the company and the said security programme was not approved substantially due to company continuing with self handling of security functions. It is then contention of the first party that BCAS issued the letter dt. 17.5.12 [Ex.19] to to the company wherein by para – 5 the company security programme was rejected due to self handling of security functions in violation of AVSEC order No. 3/2009 and AVSEC order No. 5/2009, further advising that airlines may enter into contract with Indian carriers having international operations from that airport.

39. So far as AVSEC order No. 3/2009 [Ex.19 is concerned, the said order delineated the areas of security functions to be carried out by aircraft operators / first party which include any other security functions notified by the Commissioner from time to time. Clause – 7 of the order provides that "The responsibility for all security related functions shall be with the airlines concerned. For this purpose a security coordinator shall be designated by the respective airlines at each airport from where they shall have operations."

40. Importantly, para 2 of the said AVSEC order 03/2009 provides that, "Keeping in view the AVSEC requirements under current surcharged security scenario, these AVSEC functions cannot be mixed up with other ground

handling activities, and these AVSEC functions shall not be allowed by an Aircraft Operator / Airport Operator to be undertaken by a Ground Handling Agency."

41. Para 3 of the said AVSEC order 03/2009 further provides that, "The above mentioned security functions shall be carried out by the concerned airlines' security personnel who possess all competencies required to perform their duties and are appropriately trained and certified according to the requirements of the approved Security Programme of respective Aircraft Operator and the National Civil Aviation Security Programme of India.".

42. So far AVSEC order 05/2009 is concerned, it provides for reviewed norms for deployment of airlines security staff to undertake security functions. The said order is in force even today and related mandatory provisions are; Clause [A] – Provides that airlines must have Chief Security Coordinate. Clause (B) provides for deployment of officers of the airlines Security Department of suitable seniority at various stations for effective security supervision and implementation. Clause [E] provides that each airline should establish a Security Control Room to coordinate all security functions and should be manned during its operations by one or more security personnel. Clause [F] provides for deployment of security personnel at different security positions for the airlines including foreign airlines. Clause [G] provides that the Security Supervisor shall ensure that Aircraft Release Certificate signed by all the concerned departments and signature is to be obtained from the Commander of the flight.

43. It was for the first party to ensure the compliance of the above orders and as such vide letter dt. 31.12.14 BCAS directed the first party to give undertaking that the first party will comply with all the BCAS orders / circular in particular AVSEC order 05/2009 and accordingly the first party has given the undertaking to the Govt. of India. MW-1 has admitted this fact. It appears therefore that since the first party has not complied the mandatory directions of BCAS for compliance of AVSEC order 05/2009 its security programme was not approved. That does not mean that BCAS imposed restrictions upon the first party on the grounds of security functions since the fact remains that the security programme of the first party for Mumbai station was approved by BCAS vide their letter dt. 31.12.14 whereby the BCAS has taken specific undertaking for compliance of all Govt. / BCAS orders and circulars, However, that undertaking is given by the first party after termination of the services of second party workmen.

44. Even then the Learned Counsel for the first party submitted that on 22.5.12 Mr. Umesh Parulekar attended the meeting with BCAS officials for approval of the security programme but company security programme was rejected and from 2nd to 5th April '13 BCAS conducted security audit in company at Mumbai Airport and once again rejected the security programme of the company substantially because company had continued with self handling security functions being violation of AVSEC order No. 03/2009 and 05/2009. Submission is to the effect that by letter dt. 19.7.13 [Ex.26], the BCAS intimated to the company that its security programme is not approved because company conducted self handling of security functions in violation of aforesaid AVSEC orders and called upon the company to take corrective measures within the period of 30 days under intimation to BCAS to preclude the possibility of unlawful interference that Civil Aviation operations and thereafter by notice dt. 16.9.13 in the light of ban on self handling security functions the company closed security dept. at Mumbai airport as it had discontinued the airport security functions.

45. So far this submission is concerned, it can be said that none of the government orders / circulars or instructions stopped or prohibited the first party to do the security functions at airport by keeping own employees. BCAS letter dt. 17.5.12 [Ex.19] shows that BCAS returned the security programme for the reasons stated therein including to provide letter about appointment of Chief Security Officer as per clause – 6 of the letter. Accordingly, BCAS directed the first party to resubmit the security programme. Admittedly, it is mandatory for every airline to have security coordinator at each station. Even BCAS letter dt. 16.5.13 regarding security audit at Mumbai airport from 2.5.13 pointed out the deficiencies in security arrangements of the first party by observation in para – 3 that out of 18 security staff 14 did not have undergone basic AVSEC. All are due for refresher course. Para – 2 of the said letter mentioned that airline is performing self handling security functions except cargo by AI security which is in violation of AVSEC order No. 03/2009 and 05/2009 and the first party was directed to take corrective measures. Vide said, para – 2 it was pointed out that first party was performing self handling of security and that first party was doing cargo security by AI and the said was in violation of AVSEC order No. 03/2009 and 05/2009.

46. Obviously, by above letter dt. 16.5.13 BCAS has no where directed the first party not to carry out the security functions.

47. As a matter of fact, it can be seen that the first party vide letter dt. 17.5.13 to Dy. Commissioner of Security, Civil Aviation, Govt. of India Ex.25 has admitted that the Aircraft Operator Security Programme was returned to make necessary changes. In para – 2 of the said letter it is stated that SAA has a security dept. in Mumbai airport performing all security related functions as per National Civil Aviation Security Programme. Vide letter dt. 17.5.13 the first party has also submitted in para – 3 that it has made prompt compliance as per BCAS directions vide letter dt. 16.5.13 and sent for 15 days training and refresher course of its security employees. If really there was any objection by BCAS for self

handling of security functions by the first party then the first party would not have sent its security employees for training.

48. Infact, there is enabling provisions that airline may enter into agreement with authorized Indian carrier. However, there is no specific order, circular, rules providing that foreign airlines are prohibited or not authorized to do the security functions and that the airline has to enter into agreement with the Indian carrier. In the instant case first party had well trained highly experienced security personnel and as such first party is capable of or competent to do self handling of security functions. Even MW-1 in his statement during the cross examination has stated that since BCAS has quoted order No. 05/2009 dt. 29.10.09, he in his affidavit has stated that first party is performing self handling functions in violation of this order. The question therefore creeps in as to whether really there was ban on self handling security functions by foreign airlines.

49. In this respect, we have document at pg. 156 below list Ex.25 to show that application was made under RTI 2005 and the information was sought on the subject if airline can carry on with its operation at any airport without existence of its own security dept. and the information given is that the airline is not permitted to carry on its operation at any airport without existence of its own security dept. This information was given by Dy. Commissioner of Security [CA & CPIO]. The information was also sought on the subject if any airline can be allowed to carry on its airline operation landing aircraft into Indian territory without having its security programme duly approve by as mandated by law and the information given is to the effect that no scheduled commercial airlines is allowed to do so. From this information it is clear that airline cannot carry on its operation at airport without existence of its own security dept. For that purpose it has been brought on record that the first party employed more than 100 employees in the estt. and carried on security functions since it starts of operation in India in 1970. This is explicit from the document filed by the second party vide Ex.13 at Pg. No. 66 to 69 and Ex.25 at Pg. 35 to 40.

50. Even it is undisputed position that the concerned workmen were trained in aviation security functions holding AVSEC certification of training conducted by BCAS and are competent to handle any airlines security responsibility and perform any security functions. In such circumstances when it is mandatory for the airline that there has to be one security control room at each station and that every airline to have security coordinators at each station and then the security programme of the first party got approved by BCAS vide letter dt. 31.12.14 then it is difficult to accept that there was complete closure of security functions by first party airline. It is because there is evidence on record that the first party continued with his business and security functions / depts. even after 16.9.13 in as much as the first party addressed letters dt. 15.4.14 to the Govt. / BCAS through its own Chief Security Officer vide Ex.25 and BCAS issued the letter dt. 31.12.14 addressed to Chief Security Officer regarding approval of security programme of first party vide Ex.37. The evidence is also on record to show that the first party had transferred two security staff from Mumbai to Delhi in 2004 who were transferred back to Mumbai due to shortage of security staff. The fact remains therefore that there was no complete closure of security functions by first party airline.

51. Even then the Learned Counsel for the first party company submitted that as per mandatory directions of BCAS the company had no other option but to engage M/s. Jet Airways India Ltd. for handling security functions. Submission is to the effect that ban on self handling security functions by foreign airlines is the policy decision of the BCAS in accordance with the powers vested in it and therefore the security dept. in Mumbai was rightly closed. Submission is to the effect that the company required to retain its own security personnel for supervising the work of out-source agencies as ultimate responsibilities of the security functions still lies upon the company. Hence the company had to retain 2 security personnel for such supervision and certification to discharge its obligations.

52. The submission is other way round. As a matter of fact, even after termination of the second party workmen the first party appointed security personnel at different stations in India and those security staff appeared in basic AVSEC examination to clarify the requirement of BCAS for security functions when on the contrary the concerned workmen were qualified.

53. If really it would have been a fact that foreign airlines are banned from carrying out security functions then the BCAS would not have asked M/s. Gulf Air to do refresher of the permanent staff which is self handling of security functions. It appears that as per communication to M/s. Gulf Air vide letter dt. 16.5.13, BCAS communicated that there was shortage of security staff and that the permanent security staff needed refresher course and thus directed M/s. Gulf Air for taking corrective measures. That negates the contention of the first party that the foreign airlines are banned for carrying out security functions by BCAS. Precisely, it is also admitted by MW-1 [Ex.31] in his cross examination that it is mandatory for every airline to have security coordinators at each station who according to first party are required to supervise the work of security functions as ultimately the responsibility of the security functions lies on the company.

54. In the context, the Learned Counsel for the concerned workmen has placed reliance on the decision in case of M/s. Biddle Sawyer Ltd., Dr. Annie Besant Road, Worli, V/s. Chemical Employees' Union and Ors. – WP No. 427 / 2006, wherein it has been held that the closure would really mean the permanent closure of place of employment or part

thereof and the same could never mean only place of employment. A place of employment means a place which generates employment or where the business is carried and the same should not be construed in a superficial manner to indicate only building or factory.

55. In view of this, the submission of the Learned Counsel for the concerned workmen is that there was no closure of security union / functions since closure means the closure of business all together. From the evidence it is clear that first party has not closed its security functions at airport Mumbai or any other station in India. Even otherwise the alleged closure of security unit is post-facto the retrenchment of the concerned workmen and therefore the issue of closure of security functions is not relevant in so far as retrenchment of concerned workmen is on the ground of substantial reduction in work load in security activities especially in cargo section.

56. Learned Counsel for the second party urged that the termination of the concerned workmen was pre-meditated since action was already taken by the first party prior to 16.9.13 which culminated in termination of the services of the second party workmen. He pointed out that in 2011 first party engaged M/s. Celebinas Co. for its ground handling functions. In 2012 first party handed over cargo security functions to A.I. without permission from BCAS, in May '13. First party offered VSS and offered VSS only to the staff at airport Mumbai. That VSS was applicable only to traffic and security staff and loaders and not to any other staff of any other dept. The first party applied for permission from BCAS in June '13 to outsource security and other ground handling functions to M/s. Jet Airways India Ltd. On 16.9.13 first party outsourced ground handling to M/s. Jet Airways India Ltd. After 16.9.13 first party made fresh recruitment of the employees including security job without adverting to concerned workmen. Submission appears probable and acceptable since the fact has come on record that there was no complete closure of the security functions and that there was no directions and order from the BCAS to close down the security functions.

57. In this respect, the Learned Counsel for the concerned workmen seeks to rely on the decision in case of Mackinnon Machenzie and Co. Ltd. V/s. Mackinnon Employees Union – [2015] – 4 – SCC – 544 to submit that statutory provisions containing section 25 FFA of I.D. Act mandate that company should have issued the intended closure notice to the appropriate Govt. and should serve the notice atleast 60 days before the date on which it intended to close down the dept. / unit concerned of the company. The object of serving such notice on the State Govt. is to see that it can find out whether or not it is feasible for the company to close down the dept. / unit of the company and whether the workmen concerned ought to be retrenched from their services made unemployed and to mitigate the hardship of the workmen and their family members. Further the said provisions of I.D. Act is a statutory provisions given to the workmen concerned or prevent the appellant company from retrenching the workmen arbitrarily, unreasonably and in an unfair manner.

58. With this the submission is that there is no closure of security functions / dept. by the first party which is still continuing with its business with the security functions with own personnel by hiring 50 contractual staff including 9 security staff from ground handling agency.

59. I shall now refer to the authorities relied upon by the Learned Counsel for the management. Reliance is placed on the judgment and order dt. 10.1.18 passed by the Hon'ble H.C. in WP No. 2657 / 2017 – Bharatiya Kamgar Karamchair Mahasangh V/s. Jet Airways India Ltd. to submit that restrictions imposed by BCAS are having binding effect.

60. Reliance is placed on the decision in case of Parry & Co. V/s. P.C. Pal & Ors. – 1969 0 2 – SCR – Page – 976 to submit that when the reorganizing of business is done bonafidely it is not competent for the tribunal to question is propriety. It is held that in reorganization of the business for the reasons or economy or conveyance discharge of some of the employees would have no material bearing on the question whether the scheme is adopted by the employer in a bonafide manner.

61. Here in the instant case as seen earlier there was no directions from BCAS to close the security functions for bonafide reasons, it cannot be said that the company stopped self handling of security functions for bonafide reasons therefore the facts in the present case are quite distinct and distinguishable.

62. Considering all these facts I find that the action of management in terminating the services of the concerned workmen by way of retrenchment on the ground that there was substantial reduction in work load of security activities especially in cargo section for a long period of time is illegal and improper. Once we come to the conclusion that there is no valid closure of security dept. at Mumbai airport by the first party airlines then it cannot be said that reference itself is not maintainable as security unit is closed. As such the reference is maintainable. The above issues are therefore answered accordingly as indicated against each of them in terms of above observations.

Issue No. 3 & 4.

63. In view of my findings to the above issues the termination of the concerned workmen is not legal just and proper. The reliefs claimed by the concerned workmen are in respect of reinstatement to their original post with full back wages, continuity of service and all consequential benefits.

64. In this respect, Learned Counsel for the first party management submitted that the burden is on the workmen to plead and prove his not obtaining alternative employment. It is not sufficient for the workmen only to state on affidavit that he is not gainfully employed and that the workmen has to establish by cogent evidence that he is not gainfully employed. He has to explain how he and his family are survived. According to the Learned Counsel for the first party, the workmen have not produced any applications made by them for alternative employment. They have also not disclosed how they and their families are surviving. Infact in the affidavit of union's witness, it is stated that due to old age they would not get alternative employment when infact they could have easily obtained alternative employment. Therefore the relief of back wages ought to be rejected. In the context reliance is placed on the decision in case of Rajasthan State Road Transport V/s. Phoolchand – 2018 – SCC – Online SC – 1538. Similarly, the reliance is placed on the decision in case of U.P. State Bridge Corpn. V/s. Maharashtra General Kamgar Union – 2008 (4) – MhJ – 297.

65. On going through the evidence of Umesh Parulekar, he appears to have stated in his examination in chief that it was difficult for the second party workmen to get the suitable job anywhere else at this stage and age of their life. There is no cross examination directed against it. Sum and substance of his evidence in this respect is that due to old age they did not get the job. In such circumstances when the concerned workmen have rendered 19 years unblemished service and their services came to be retrenched on account of substantial reduction in work load of security activities by the first party then in such circumstances concerned workmen are entitled to back wages from the date of termination.

66. Considering all these facts I find that the concerned workmen are entitled to relief of reinstatement to their original post with full back wages, continuity of service and all consequential benefits from the date of termination / retrenchment.

67. In the result, I pass the following order.

ORDER

1. **Reference is allowed with no order as to costs.**
2. **Termination letters dt. 04.07.2013 issued by the first party to the concerned workmen are quashed and set aside.**
3. **First party employer is directed to reinstate the concerned workmen to their original post with full back wages, continuity of service and all consequential benefits from the date of termination.**

Date: 12.12.2019

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 15 जनवरी, 2020

का. आ. 105.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सहारा एयरलाइंस लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुम्बई के पंचाट (संदर्भ संख्या 45/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14.01.2020 को प्राप्त हुआ था ।

[सं. एल-11012/18/2013-आईआर (सीएम-I)]

एस. सी. राय, अनुभाग अधिकारी

New Delhi, the 15th January, 2020

S.O. 105.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai (Ref. No. 45/2013) as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of M/s. Sahara Airlines Limited and their workmen, which was received by the Central Government on 14.01.2020.

[No. L-11012/18/2013-IR(CM-I)]

S. C. RAY, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : M. V. Deshpande**,** Presiding Officer

REFERENCE NO. CGIT-2/45 of 2013

EMPLOYERS IN RELATION TO THE MANAGEMENT OF M/S. SAHARA AIRLINES LTD., LUCKNOW & MUMBAI

M/S. SAHARA INDIAN COMMERCIAL CORP. LTD.

The Director, Managing Worker & Chairman,
M/s. Sahara Airlines Ltd.,
Sahara India Bhawan-1,
Kapoorthala Complex,
Lucknow - 226024

The Director Worker,
M/s. Sahara Airlines Ltd.,
Champion Building, Jawahar Nagar,
S.V. Road, Goregaon [West],
Mumbai – 400 104

M/s. Sahara Indian Commercial Corporation Ltd.,
General Manager Workers,
Sahara India Centre,
8th Floor, 2, Kapoorthala Complex,
Aligani, Lucknow - 226024

AND

THEIR WORKMEN

Sanjay Kumar B. Mishra,
Flat No.10, Gr. Floor, C-Wing,
Tula Apartments,
Central Part, Nallasopra [E],
Mumbai – 401 209.

APPEARANCES:

FOR THE EMPLOYER : No Appearance

FOR THE WORKMEN : Mr. M. B. Anchan, Advocate

Mumbai, dated the 17th December, 2019

AWARD

1. This is reference made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide Government of India, Ministry of Labour & Employment, New Delhi vide its order No. L-11012/18/2013 – IR (CM-I) dated 23.07.2013. The terms of reference given in the schedule are as follows :

> *"(i) Whether the of the management of M/s. Sahara Airlines Ltd., and M/s. Sahara Indian Commercial Corporation Ltd. has contravened Section 2 (ra) of clause – I 5 (a) (b) of the Fifth Schedule of I.D. Act, by not allowing the applicant to join either at the place, where he is transferred or at his place of appointment ? (ii) If so, whether the case of workman is fit for reinstatement in the services of M/s. Sahara Airlines Ltd., with all consequential benefits, with retrospective effect from 1.6.2007 ?''*

2. After the receipt of the reference, both the parties were served with the notices.

3. On going through the Roznama, it appears that the management and also concerned workman are absent since long. It appears from the Roznama that the concerned workman have filed statement of claim but then thereafter he is absent. He has not filed affidavit/evidence or the documents to substantiate the claim.

4. Hence the reference is liable to be rejected for want of evidence. Hence order.

ORDER

Reference is rejected for want of evidence.

Date: 17.12.2019

M.V. DESHPANDE, Presiding Officer

नई दिल्ली, 16 जनवरी, 2020

का. आ. 106.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इण्डियन बैंकस एसोसिएशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 10/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.01.2020 को प्राप्त हुआ था।

[सं. एल-12011/109/2009-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 16th January, 2020

S.O. 106.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2010) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court, Bangalore* as shown in the Annexure, in the industrial dispute between the management of Indian Bank's Association and their workmen, received by the Central Government on 16.01.2020.

[No. L-12011/109/2009-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 02ND JANUARY 2020

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 10/2010

I Party	**II Party**
The General Secretary, All-India Bank Sub Employees Union, No. 20, 9th Main Road, II Floor, III Block, Jayanagar, BANGALORE – 560011.	The Chairman, Indian Banks' Association Center 1, 6th Floor, World Trade Center, Cuffe Parade, MUMBAI – 400005.

Appearance :

Advocate for I Party : Mr. Muralidhara

Advocate for II Party : Mr. K. Subha Ananthi

AWARD

The Central Government vide Order No.L-12011/109/2009-(IR(B-II) dated 15.02.2010 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

> **"Whether the action of Indian Banks' Association and their member banks were justified in refusing to invite for discussion / negotiations in respect of the workmen of the members of All Indian Bank Sub-employees Union to represent their members in the matter of pay-scale, allowances and other service conditions in the Banking Industry when they had substantial members of nearly 8580, while IBA and their members banks reportedly allowed even the other trade unions operating in the Bank had membership of around 1.51% to 2.44% of the total member strength of the workman's in the Public**

Sector Banks and deny on the ground that the All India Bank Sub-employees Union did not enjoy the representative character and that it was a craft Union when the craft unions are not barred under Law. To what relief the All Indian Banks Sub-employees Union are entitled to?"

1. The claim of the 1st party is, it is an Association under the Trade Union Act and is making several representations on behalf of large number of it's members. The 2nd Party is represented by Indian Banks' Association, it's members are mostly Nationalised Banks and is entering into Industrial settlements covering or governing the wage rates / salary bills and other service conditions with the Trade Union of Sub-Staff employees serving in the Banking Industry. The 2nd Party did not invite the 1st Party for 9th Bipartite Wage Revision negotiation on the ground that, it has a membership of 84 only but the petition Association had a membership of 13,390 Sub-Staff. This fact was stated so by the 1st Party in Writ Petition No. 7836/08 and in the said Writ Petition the 2nd Party did not controvert the said averment. The various Nationalised Banks used to deduct the membership fee in respect of the 1st party Association Account; without enquiring with the 1st Party, the 2nd Party has failed to call 1st Party for negotiation. They represent substantial number of Sub-Staff serving in the 2nd Party Banks. They are entitled to be called for general discussion otherwise they will not be able to properly reflect peculiar circumstances, problems and demands of the Sub-Staff. There are many problems which have remained unsolved. The settlements entered with the other Unions by the Indian Banks' Association do not help to solve the grievances and problems of the Sub-Staff. Their membership runs to more than 8,900 members; Canara Bank, Punjab National Bank, Syndicate Bank and State Bank of India have given facility of payroll check off in respect of the 1st party. Hence, the 1st party has directly enrolled as paying members among rest of the Sub-Staffs. At no point of time Indian Banks' Association or the Nationalised Bank requested the 1st Party to furnish its membership or get it investigated into 1st Party Union.

The demands made by the 1st Party are materially different from the demands made by the other negotiating Unions. The demands of the other Union do not take into account the actual work load responsibility discharged by the 1st Party Union. The settlements arrived with the 2nd Party Union by the 1st Party do not reflect the actual position of the Sub-Staff and their peculiarities. There is no proper basis while selecting the Trade Union for negotiation of settlements; the settlement arrived with other Unions is not satisfactory and not binding the 1st Party.

2. The counter of the 2nd Party to the claim is, as on 31.03.2008, out of 1,57,855 Subordinate Staff employees; the 1st party Union has only 112 members in 3 Banks viz., Bank of Baroda 10, Canara Bank 74 and Syndicate Bank 28. The 2nd Party invites only those, who are workmen Unions in the Banking Industry for negotiation which has sizeable membership and of representative character in the Industry at National level. The individual Banks determine the membership strength and representative character on the basis of check off facility extended to all Registered Trade Unions, as per Government of India directives. For the last three wage revisions, the employee's Unions operating in the Industry submitted their Charter of Demands under the umbrella of **United Forum of Bank Unions** (UFBU). The constituent Union of UFBU commend 93.76% of the total number of workman employees in Bank. The 1st Party is neither a unit of UFBU nor enjoys substantial membership. The India Banks' Association represents almost all Banks in the Banking Industry including Public and Private Sector and Foreign Banks. 46 Banks were represented by the IBA in the recently concluded 9th Bipartite Settlement, as per the mandate given by the respective Banks. The Charter of Demands for the 9th Bipartite Settlement is submitted by UFBU consisting of 5 workmen Unions, 4 Officers' Union and **Bank Karmachari Sena Mahasangh** (BKSM), which represent more than 95% of workforce in the Banking Industry.

There is no vested Statutory right with any Union to compel the Employer for recognition or insist for negotiating status. Before staking it's claim for recognition, a Union must establish that it represents a Substantial section of the work force i.e., more or less 15%. But a Union which represents less than 2% of work force cannot be said to have representative character.

3. Both Parties adduced evidence by examining one Office bearer of their Union / Association, reiterating respective stand.

4. The witness for the 1st Party is their General Secretary; he has produced the statement of account for the period 01.02.2008 to 18.06.2008 in respect of SBI Chaturth Shreni Karmachari Union issued by State Bank of India regarding remittance of subscription (Ex W-9) by Sub-Staff employees.

During the course of cross examination, he stated that, payroll facility is provided to the Union by Canara Bank, Syndicate Bank, Punjab National Bank and State Bank of India. Out of the documents produced by him (to substantiate the number of membership) there is no check off deduction made in respect of 74 employees. He admits that, negotiation relating to workman and Officers will be separate…. in the negotiation relating to workman only one Union negotiates in respect of Sub-Staff and Clerical Cadre…. demands of Sub-Staff have to be negotiated through workmen Union. With regard to the number of members his cross examination evidence was to the effect that the SBI, Chaturth Shreni Karmachari Union, Mumbai, consists of around 3000 members - in Punjab National Bank there are 124 members of Sub-staff - in the head office of the Union Bank of India - around 100. He admits that, the total strength of Sub-Staff

of all bank in the country would be 1,57,855…. the membership of our association is very negligible compared to the total number of Sub-Staff of all the Banks…. All India Banks' Association represents 2,25,120 members; National Confederation of the Bank Employees represent 1,61,221 members; Bank Employees federation of India represents 35,241 members; National Organisation of Bank Workers represent 11,307 members; Indian National Bank Employees Federation represents 9,204 members… these number pertaining to members is based on check off facility…. in all there are 27 Public Sector Banks.

The witness identified the copy of the summary of membership strength of the workmen Union in the Public Sector Banks which is marked as Ex M-1. The witness further admits that, the total majority of UFBU is 94% and the Bank Karmachari Sena Maha Sangh consists of 7,000 members (the witness expresses ignorance to the suggestion all those 7,000 members are Subordinate Staff).

5. MW1 is the Vice President of 2nd Party Association; he denies the suggestion that, all Banks do not provide check off facilities; according to him, all recognised Unions are entitled for check off facility. He does not dispute that, the sub-staff may be facing peculiar problem with regard to their cadre and also the Unions may be collecting subscription from the members directly.

6. Both parties have submitted their written argument.

The core contention of the 1st Party is, they represent exclusively Sub-Staff who are facing peculiar circumstances and problems pertaining to their category and their membership is 11,000; this fact is not specifically disputed by MW2; the 1st party is able to produce the documentary proof pertaining to their membership of Canara Bank and Syndicate Bank only; put together the number of membership does not come close to 11,000 as claimed by them. The explanation offered in respect of their inability is, the documents relating to other Banks were snatched away by unknown person on 30.10.2010 (obviously after the dispute was referred to this Tribunal).

As per Ex M-1, the total strength of employees in public sector bank as on 31.03.2008 was 7,18,270 out of them 43% were clerks and 22% was the sub-staff. Member strength of the workman Union in Public sector Banks is 4,64,279 (inclusive of 6 Unions and **OTHER UNIONS** with minimum percentage and 2.09% of non-unionised workman employees). Unfortunately, the 1st party herein does not fall in the category of **OTHER UNIONS** as per the annexure attached to Ex M-1. 96.73% of the total number of workman employees in Public Sector Bank owe their allegiance to the 6 workmen Unions with whom IBA negotiates discussions; among such unionised workman 34% belong to Sub-Staff category; 3.27% of the total number of Sub-Staff employees in public sector Banks who are not the members of the named unions are either non-unionised or members of other Unions.

7. The 1st party has failed to produce documentary proof that, they are representing the substantial percentage of the Sub-Staff cadre. Looking to the data as furnished in Ex M-1, it cannot be said that there was any hostility or aversion against the 1st Party in 2nd Party not negotiating with the 1st party. The copy of the Gazette Notification dated 19.11.2008 is produced as Ex M-3; by the said notification a scheme called Nationalised Banks' (Management and Miscellaneous Provisions) (Amendment) Scheme 2008 is promulgated by the Ministry of Finance. As per the 1st Schedule (amended) among other things, the management of the Bank are advised that, one year before the expiry of the tenure of the incumbent workmen Directors Banks have to verify membership strength of the Union belonging to the workman employee of the Bank for the purpose of determination of representative union. It is further advised that *the verification of the membership of the Union, Federation or Association is to be done on the basis of the deduction made from the salary of the workman for the month of March of the relevant year based on the check off mandate.*

In the light of the above, if the 2nd Party has taken into account the number of membership of the sub-staff only on the basis of the check off system, no fault can be found with them. The 1st party has failed to establish the strength of its members by documentary proof. As such there is no hard and fast rule about the strength of the members of a Union to get eligibility to participate in the negotiation task. It is also evident from Ex M-1 that, negotiations are also held with the Unions whose strength ranges below 7.59% to 1.51%.

The Hon'ble Division Bench of Hon'ble High Court of Calcutta in Board of Trustees, Port of Calcutta vs. Haldia – Calcutta Port and Dock Shramik Union and Ors. (1994 II LLJ P-575) ruled that, *"a trade union which represents less than 2% of work force cannot be said to have representative character which will impel the Court to direct the Management to give recognition to the Union"*.

8. The 1st party is unable to show their source from which a right to seek for participation in negotiation flows in their favour. If any settlement arrived between the Management and the Unions is harmful to the interest of the members of the 1st party, definitely they have forum to agitate provided by legal enactments. The referred issue presupposes that though the 1st party Union has membership strength of 8,500 they are alleged by the 2nd Party as having no representative character but it is only a **craft union.** But before this Tribunal the story presented was otherwise. The question of **'craft union'** did not arise and the 1st Party failed to prove their alleged membership of 11,000.

9. For the discussion supra, I hold that the action of the 2nd Party in not inviting the 1st party for discussion / negotiation in the matter referred in the schedule to the reference cannot be said to be improper or not justified.

AWARD

The reference is rejected.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 02nd January, 2020)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 16 जनवरी, 2020

का. आ. 107.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 2, चण्डीगढ के पंचाट (संदर्भ सं. 51/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.01.2020 को प्राप्त हुआ था।

[सं. एल-12011/74/2018-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 16th January, 2020

S.O. 107.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* No. *2*, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 16.01.2020.

[No. L-12011/74/2018-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A.K. Singh, Presiding Officer

ID No. 51/2018
Registered on:-04.12.2018

F.C. Mittal, Organising Secretary of Punjab National Bank
Employees Association Regd. Chandigarh. …Workman

Versus

1. General Manager, Punjab National Bank, HRD, HO,
   Plot No.4, Sector 10, Dwarka, New Delhi.
2. Circle Head, PNB, Circle Office, Chandigarh Circle,
   Sector 17-B, Chandigarh. ...Managements/Respondents

AWARD
Passed on:-27.12.2019

Central Government vide Notification No. L-12011/74/2018-IR(B-II) Dated 16.11.2018, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of the management of Punjab National Bank in not releasing the 6th Stagnation increment to Shri F.C. Mittal, Ex-Computer Operator w.e.f. 01.02.2013 is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?"**

1. Both the parties were put to notice and claimant F.C. Mittal filed statement of claim, alleging therein that he is a workman who joined Punjab National Bank, Zonal Training Centre, Chandigarh on 03.02.1981 and served till his superannuation on 31.01.2014 after completing more than 30 years of unblemished service. Respondent no.2 is the controlling officer of the branch at the time of the retirement of the workman. The terms and conditions of the Bank Employees were regulated vide various awards and settlements as amended from time to time and 9th and 10th Bipartite

Settlement dated 27.09.2010 and 25.05.2015. The 10th Bipartite settlement is operational for the period from 01.11.2012 and binding on both the management of Punjab National Bank and workman. Para 5 of this settlement deals with the stagnation increment copy of which is attached as P-1. The workman was retired on 31.01.2014 on superannuation and the 10th Bipartite settlement was signed after his retirement as such, basic pay of the workman was revised from 01.11.2012 and fixed on Rs.38,090/- per month. Arrears of salary from 01.12.2012 to 31.01.2014 were also paid to him without giving the benefit of 6th stagnation increment from 01.02.2013 after 2 years from sanctioning of 5th stagnation increment i.e. 01.02.2011, raising from Rs.38,090/- to Rs.39,400/-. The basic pension of the workman was also not worked out on the basis of his basic pay @ Rs.38,090/- taking 6th stagnation increment into account against the guidelines of the bank circular by Punjab National Bank circular no.282/2015 copy of which is attached as Annexure P-2. The workman represented through various replications on different dates to sanction him 6th increment notionally from 01.02.2013 and pay monetary benefits but management did not respond to his request for a long time. Copies of representation are attached as P3 to P8 with the claim petition. Ultimately claimant received a letter dated 29.08.2017 from circle office, Chandigarh by which the Circle Office has denied to sanction the 6th stagnation increment notionally to the claimant from 01.02.2013 copy of which is attached as Annexure P9. Thus, according to the 10th Bipartite settlement and clarification issued vide PNB PAD Cir. No.282 dated 23.09.2015, the claimant/workman is entitled to 6th stagnation increment notionally w.e.f. 01.02.2013, which he has already earned while he was in active service of the bank as such his salary is required to be revised as well as basic pension also has to be revised in pursuance of the change of salary by virtue of 6th stagnation increment. Hence, it is prayed that monetary benefits or other retiral benefits are required to be revised after taking into account the 6th stagnation increment.

2. Respondent-management has filed its written statement, alleging therein that claimant F.C. Mittal is not entitled for the benefit of 6th stagnation increment notionally for the reason that he does not satisfy the criteria/condition prescribed in Bipartite settlement for the said benefit. The petitioner-association as well as workman appears to have misread and misunderstood terms of 10th Bipartite settlement as such, claim is completely misconceived, unfounded and untenable and found to be rejected. In fact the representation submitted by the workman were duly considered and issue taken by the higher-authority after a due deliberations, PF and Pension Fund department of the respondent-bank vide letter dated June 3, 2017(Annexure R-1) informed the workman that the pension is being paid correctly to him and so far as his claim for stagnation increment is concerned, he should approach to the circle concerned official. Thereafter workman submitted representation dated 30.06.2017 to the concerned circle office, which was duly served and he was informed that there was no requirement of any other benefits being payable to the workman vide Letter dated 29.08.2017 which is attached as Annexure R-3. The workman does not satisfy for the grant of benefit of 6th stagnation increment. The kind attention of Tribunal is also drawn on circular dated 30.06.2015 and Annexure R-5 dated 23.09.2015, Annexure R-6 issued by the PNB Division Head Office, New Delhi. By virtue of circular no.275 and 282, the only those employees who had completed 2 years or more as November 2012 were eligible for 6th increment notionally from November 2012. It is also evident from the circulars that in case an employee becomes eligible, the said increment to such employee after 3 years of receiving of 5th increment. It is admitted that the workman received 5th stagnation increment on February 1, 2011 and had not completed 2 years or more as November 12 after 5th stagnation increment as such, there is no merit in the claim petition for 6th stagnation increment from February 2013 and the said complaint is misconceived and untenable. It is further submitted that there is absolutely no merit in the workman petition for 6th stagnation increment and claim petition is liable to be dismissed being devoid of merit.

3. Parties were given opportunity to lead evidence. Workman F.C. Mittal has submitted his affidavit Ex.WW1/A and duly cross-examined by the learned counsel of management-bank. During the course of cross-examination, he has submitted that he has been granted 5th stagnation increment on 01.02.2011 and he has received 6th stagnation increment (notionally) on 01.02.2013 on the basis of the 10th Bipartite Settlement.

4. Respondent-bank has filed affidavit of witness Natasha, Manager-HRD, PNB Circle Office, Chandigarh, who has been cross-examined by the workman. This witness has proved her affidavit as Ex.MW1/A. During the course of cross-examination, this witness has stated that the interpretation of management is in pursuance of the settlements and circulars Ex.M1 to M4. This witness has denied the suggestion of the workman that that settlement and circulars are misinterpreted by the management to debar the workman/claimant from the benefits accrued on the basis of 6th stagnation increment.

5. I have heard Sh. F.C. Mittal, workman in person and Sh. Ashish Rawal, Ld. Counsel for management and have carefully gone through the evidence led by both the parties and given thoughtful consideration raised by the parties during the course of arguments.

6. Before averting to the legal controversy between the parties, it is pertinent to mention those facts which are by and large admitted between the parties. The claimant is a workman who joined the respondent-bank on 03.02.1981 and retired on superannuation on 31.01.2014 after rendering unblemished service of 30 years from BO, Sector 28,

Chandigarh as CTO on 31.01.2014. It is also not disputed, in the light of the facts alleged, that his basic pay was revised on 01.11.2012 after the signing of 10th Bipartite Settlement and his salary was fixed to Rs.38090/- per month. Arrear of salary from 01.12.2012 to 31.01.2014 was duly paid. In short it can be said that there is no dispute between the parties regarding the post retiral benefits, application of 6th stagnation increment from 01.02.2012 as is alleged by the workman in his claim petition and revising the pay structure from 28090/- to 39,400/- and consequential benefits in pension on the basis of the basic pay as Rs.39,400/- per month.

7. The real controversy which revolve between the parties relates to the 10th Bipartite Settlement and consequential circulars issued for extension of benefits i.e. circular no.275 dated 30.06.2015 and circular no.282 dated 23.09.2015 which is attached with claim petition as well as written statement of the respondent. Circular no.275 runs as follow:-

"5. Stagnation Increments

In partial modification of Clause 5 of Bipartite Settlement dated 27th April 2010, both clerical and subordinate staff (including permanent part-time employees on scale wages) shall be eligible for eight stagnation w.e.f 1st November 2012 at the rate and frequency as stated herein under:-

The clerical and subordinate staff including permanent part-time employees on scale wages on reaching the maximum in their respective scales of pay, shall draw eight stagnation increments at the rate of Rs.1310/- and Rs.655/- (pro rata in respect of permanent part-time employees) each due under this settlement, and at frequencies of 3 years and 2 years respectively, from the dates of reaching the maximum of their scales as aforesaid except that in the case of clerical staff, sixth, seventh and eighth stagnation increments will be released two years after receipt of fifth, sixth and seventh stagnation increments respectively, provided that an employee who has completed two years or more after receiving fifth stagnation increment as on 1st November 2012 shall receive the sixth stagnation increment as on 1st November 2012.

Provided further that a clerical/subordinate staff (including permanent part-time employees on scale wages) already in receipt of seven stagnation increments shall be eligible for the eight stagnation increment on 1st May 2015 or two years after receiving the seventh stagnation increment, whichever is later."(emphasis supplied)"

8. So far as PAD Circular Np.282 dated 23.09.2015 is concerned, it runs as follows:-

"2. In this regard on the request of workmen unions, IBA vide their letter No.HR7IR/CIR/2015016/B/90/1377 dated 19.09.2015 has clarified as under:

The employees who have completed two years or more as on 1st November 2012, after receipt of 5th stagnation increment, would be eligible for 6th stagnation increment w.e.f. 1st November 2012, notionally, however, monetary benefit to such employees will be given 3years after receipt of 5th stagnation increment or w.e.f. 1st May, 2015 whichever is earlier. Similarly, 7th stagnation increment will be released notionally 2 years after notionally released of 6th increment and monetary benefit of 7th stagnation increment will be released 2 years after receipt of monetary benefit of 6th stagnation increment or w.e.f. 1st May, 2015, whichever is earlier . . .xx x x…."(emphasis supplied)

9. The real controversy between the parties relates with the date of retirement of the workman i.e. 31.01.2014 while the explanation of the respondent is that workman is not in service on 01.02.2014 when 6th stagnation increment has to be implemented by virtue of the circulars no.275 and 282. The reply sent by the management to the Assistant Labour Commissioner(C), Kendriya Sadan, Sector 9, Chandigarh dated 09.091.2018 reveals that claimant received 5th stagnation increment on 01.02.2011 therefore, claimant was not eligible to receive increment on 01.11.2012 as amended by the circular. Further the 6th stagnation increment was released on 01.02.2013 notionally but the monetary benefit has to be given from 01.02.2014 i.e. the actual date of release of increment. In the present case employee/workmen had retired from bank-service. Thus, the reply sent by the bank-management it is admitted and proved that notional increment of the workman has to be released on 01.02.2013 by virtue of passing 2 years time from receiving 5th stagnation increment on 01.02.2011. The letter sent by the management to the Assistant Labour Commissioner is dated 09.01.2018. Contradicting the contents of letter workman had drawn my attention towards the letter sent by the General Manager Human Resource Department through M.K. Gupta, General Manager H.R. dated 30.11.2018 in which a direction is made after receiving the clarification receipt from the Indian Banks Association regarding the retired/superannuated employees which runs as follows:-

"In this regard, we further wish to clarify that those Award Staff members who have ceased to be in the Bank's service between the period from 01.11.2012 to 30.04.2015 would also be entitled for the benefit of notional release of stagnation increment specifically for the purpose of giving them the benefit of enhanced

Basic Pension. In other words, the calculation of Basic Pension of such employees would be done on the basis of the instructions contained in Para 2 of our aforesaid Branch Circular i.e. after release of their due notional stagnation increment, if any."

10. Thus, the letter sent by the General Manager H.R. Mr. M.K. Gupta specifically deals with the condition of those employees who have retired from bank-service between the period from 01.11.2012 to 30.04.2015 who could be entitled for the benefits of notional release of stagnation increment specifically for the purpose of giving them the benefit of enhance basic pension. In other words the calculation of the basic pension of such employees would be done on the basis of para 2 of the aforesaid branch circular i.e. after release of their due notional increment, if any. It is beyond doubt and dispute that workman/claimant had retired from service on 31.01.2014. Thus, by virtue of the clarification dated 30.11.2018 workman whose notional increment becomes due on 01.11.2012 is entitled for release of stagnation increment along with benefit of enhance basic pension. It is also not disputed that if notional increment is given to the workman from 01.12.2011 his basic pay will be raised from 38090/- to Rs.39400/- as is claimed by the workman and the basic pension of the workman is also to be revised on the basis of basic pay as Rs.38090/- per month and arrears has to be paid to the workman by the bank-staff. The argument advanced by the learned counsel of management and interpretation of circular is certainly misconceived in the light of the clarification sent by the General Manager H.R. of Head Office, Human Resource Department which is unambiguous in this respect and management is duty bound to release the arrears of pension as well as of 6th stagnation increment and revised pension and payment of arrears to the workman.

11. Having gone through the above disputed facts, legal proposition, circulars and subsequent clarification sent by the General Manager H.R., this Tribunal is of the considered view that the action of the management of Punjab National Bank in not releasing the 6th stagnation increment from 01.02.2013 is illegal, unjust and invalid and workman is entitled to arrears of the salary from 01.02.2013 onwards as well as arrears of revised pension which has to be worked out on the basis of the pay amounting Rs.39400/- and the reference is answered accordingly.

A. K. SINGH, Presiding Officer

नई दिल्ली, 16 जनवरी, 2020

का. आ. 108.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ सं. 54/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.01.2020 को प्राप्त हुआ था।

[सं. एल-12011/90/2009-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 16th January, 2020

S.O. 108.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. *54/2009)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court,* Bangalore as shown in the Annexure, in the industrial dispute between the management of *Syndicate Bank,* and their workmen, received by the Central Government on 16.01.2020.

[No. L-12011/90/2009-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 20TH DECEMBER 2019

PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer

CR 54/2009

I Party	**II Party**
The General Manager (IG), Syndicate Bank, General Manger's Office, No. 69, 9th main, II block, Jayanagar, Bangalore – 560011.	The Secretary, Syndiacte Bank employees Union, No. 138, 2nd Main Road, Seshadripuram, Bangalore – 560020.

Appearance :

Advocate for I Party : Mr. S. B. Sai Prakash

Advocate for II Party : Mr. Ramesh Upadhaya

AWARD

The Central Government vide Order No. L-12011/90/2009-IR(B-II) dated 23.11.2009 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

> **"Whether the action of the management of Syndicate Bank, Regional Office, Bellary, Karnataka in awarding the punishment of reduction of basic pay by one stage for a period of one year Sh. Ramakrishna, employee Number 352482, Clerk, Syndicate Bank, Royal Circle, Bellary vide its order No. 53/ROB/IRC/F-12/AIR2007 dated 18.05.2007 is justified and legal? What relief the workman is entitled to?"**

1. The 1st Party Trade union has espoused the cause of the workman, employee of the 2nd Party who suffered minor punishment by way of Disciplinary Action taken by the 2nd Party. Before imposing the punishment order, he was issued charges alleging, assisting a co-employee for cheating and impersonation against the employee Bank. The claim of the 1st party before this Tribunal is, the enquiry was concluded in a day and Enquiry report was submitted based on which the Disciplinary Authority imposed the punishment of reduction of Basic Pay by one stage for a period of one year which was confirmed by the Appellate Authority; he did not cause any financial loss to the Bank nor did gain any pecuniary gain / benefit at the cost of the Bank; all the charges are flimsily framed, irrelevant and unwarranted.

2. The 2nd Party refuted the allegations made by the 1st party stating that all opportunities were provided to the 1st Party.

3. On the rival pleadings of both the parties on 23.04.2012 a Preliminary Issue was framed on Domestic Enquiry and the 2nd Party has led its evidence by examining its Enquiry Officer as MW-1 and got marked Ex M-1 to Ex M-19 and he was discharged without cross examination. There was no rebuttal evidence from the 1st Party; the Preliminary Issue is answered in the affirmative. Thereafter also, the 1st Party remained continuously absent.

4. Heard Sh. RU for the 2nd Party.

5. The allegation against the workman as per the Charge Sheet was to the effect that, while working as a Clerk at Bellary main branch between 30.07.1990 to 24.06.2000, he introduced SB A/c No. 37280 at Bellary main Branch on 20.05.1996 in the name of Smt. Lakshmamma W/o Sh. Honnurappa..... Said Account holder was sanctioned FL Dairy Loan on 06.06.1997, and the loan became irregular / NPA. The residential address furnished in the account opening form is the residential address of Sh. Honnaiah who was a Clerk at Regional Office Bellary and known to the 1st Party. The Account Holder is the wife of said H. Honnaiah but in the account opening form, the name is mentioned as Sh. Honnurappa. Sh. Honnaiah in his letter dated 23.06.2005 admitted the liability of the loan availed by his wife. Thereby, the 1st Party facilitated the wife of H. Honnaiah for furnishing false and misleading information to open the account. He has assisted Sh. Honnaiah in committing act of cheating and impersonation.

6. During the enquiry, the 2nd Party examined one Official witness / their Senior Manager working at Vigilance Unit and produced 16 documents. The witness was thoroughly cross-examined; the 1st party did not adduce rebuttal evidence. The loan transaction papers, the statements of witnesses formed the part of Management Exhibits. MW-1 in his deposition stated that, he visited the residence of Smt. Lakshmamma at Gadang Street, Bellary along with the Senior Manager (RC), Bellary Branch and Manager (RD) Bijapur Main Branch on 22.06.2005. During the said visit, Smt. Lakshmamma confirmed her signatures on the loan documents; in this regard, he produced the joint inspection report (marked as MEX-11) and statement of the witnesses recorded by him.

The 1st Party did not dispute the fact that, he had introduced the SB Account 37280 of Smt. Lakshmamma at the request of Sh. Honnaiah / Staff of Bellary RO. However, his explanation was that, Smt. Lakshmamma was his relative and Sh. Honnaiah had told him that, he does not have SB A/c at Bellary main Branch.

The Enquiry Officer took note of the fact that, at the introducer's column the 1st Party had not stated for how long he knew Smt. Lakshmamma; that impressed the Enquiry Officer to record that being a responsible staff signing as introducer without knowing the depositor's address and antecedents was not proper on the part of the 1st Party. Having noticed that, there was no evidence establishing the allegation of furnishing false and misleading information assisting Sh. H. Honnaiah in cheating and impersonation and the Loan Account was closed on full settlement thereby, causing no loss to the Bank, the Enquiry Officer held the workman guilty of the commission of gross misconduct of *"doing*

prejudicial to the interest of Bank vide clause 5 (J) of the Bipartite settlement" for introducing Smt. Lakshmamma without verifying the correctness of the facts mentioned in the account opening form.

7. The Disciplinary Authority has passed a detailed order by considering the defence viz a viz the Enquiry Report and the evidence placed before the Enquiry Officer, before imposing the punishment of withholding the Basic Pay of the workman by one stage for one year. As such the punishment order does not have any implication on his future career; neither it has caused any monetary loss to him. It cannot be inferred as disproportionate to the misconduct proved. By catena of Judgements, higher Courts have reminded the Tribunals to contain from intervening in the Punishment Order, where the charges are proved during the Domestic Enquiry. The jurisdiction under Section 11-A of the I.D Act cannot be exercised in the present circumstance.

AWARD

The reference is rejected.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 20th December, 2019)

Justice Smt. RATNAKALA, Presiding Officer

नई दिल्ली, 16 जनवरी, 2020

का. आ. 109.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 20/2017, 21/2017, 22/2017, 26/2017, 29/2017, 32/2017 एवं 39/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.01.2020 को प्राप्त हुआ था।

[सं. एल-12012/40/2017-आईआर (बी-II),
सं. एल-12012/38/2017-आईआर (बी-II),
सं. एल-12012/34/2017-आईआर (बी-II),
सं. एल-12012/41/2017-आईआर (बी-II),
सं. एल-12012/32/2017-आईआर (बी-II),
सं. एल-12012/54/2017-आईआर (बी-II),
सं. एल-12012/52/2017-आईआर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 16th January, 2020

S.O. 109.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Awards (Ref. No. 20/2017, 21/2017, 22/2017, 26/2017, 29/2017, 32/2017 & 39/201)7 of the *Cent.Govt.Indus.Tribunal-cum-Labour Court,* Jaipur as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 16.01.2020.

[No. L-12012/40/2017-IR(B-II),
No. L-12012/38/2017-IR(B-II),
No. L-12012/34/2017-IR(B-II),
No. L-12012/41/2017-IR(B-II),
No. L-12012/32/2017-IR(B-II),
No. L-12012/54/2017-IR(B-II),
No. L-12012/52/2017-IR(B-II)]

SEEMA BANSAL, Section Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

पीठासीन अधिकारी : – राधामोहन चतुर्वेदी

(1) दीवान सिंह बिष्ट पुत्र श्री धनसिंह बिष्ट
(सी.जी.आई.टी. प्रकरण सं. 20/ 2017)
(रेफरेन्स नं. L- 12012/40/2017 –IR(B-II) दिनांक 21/7/2017)

(2) मुकेश कुमार सैनी पुत्र श्री भंवर लाल सैनी
(सी.जी.आई.टी. प्रकरण सं. 21/ 2017)
(रेफरेन्स नं. L- 12012/38/2017–IR(B -II) दिनांक 19/7/2017)

(3) दिलीप यादव पुत्र श्री सागरमल यादव
(सी.जी.आई.टी. प्रकरण सं. 22/ 2017)
(रेफरेन्स नं. L- 12012/34/2017–IR(B -II) दिनांक 19/7/2017)

(4) ठाकुर सिंह बिष्ट पुत्र श्री धर्म सिंह बिष्ट
(सी.जी.आई.टी. प्रकरण सं. 26/ 2017)
(रेफरेन्स नं. L- 12012/41/2017–IR(B -II) दिनांक 17/7/2017)

(5) मदन सिंह पुत्र श्री धर्म सिहं
(सी.जी.आई.टी. प्रकरण सं. 29/ 2017)
(रेफरेन्स नं. L- 12012/32/2017–IR(B -II) दिनांक 17/7/2017)

(6) मनिन्दर कुमार मीना पुत्र श्री सुरेश कुमार मीना
(सी.जी.आई.टी. प्रकरण सं. 32/ 2017)
(रेफरेन्स नं. L- 12012/54/2017–IR(B -II) दिनांक 18/9/2017)

(7) इन्द्रजीत यादव पुत्र श्री माखन लाल यादव
(सी.जी.आई.टी. प्रकरण सं. 39/ 2017)
(रेफरेन्स नं. L- 12012/52/2017–IR(B -II) दिनांक 26/9/2017)

सभी द्वारा–महासचिव , पी.एन.बी. वर्क्स आर्गेनाइजेशन, सी–13, औझा जी का बाग, गांधी नगर मोड़, जयपुर (राजस्थान)

बनाम

दि फिल्ड़ जनरल मैनेजर,
पंजाब नैशनल बैंक, जोनल ऑफिस –2,
नेहरू प्लेस, टोंक रोड़, जयपुर – राजस्थान

उपस्थित : –

प्रार्थीगण की तरफ से : कोई नहीं – एडवोकेट

अप्रार्थी की तरफ से : श्री सुरेन्द्र सिंह

: **अधिनिर्णय** :

दिनांक : 5. 12. 2019

1. श्रम मंत्रालय भारत सरकार, नई दिल्ली द्वारा दिनांक 17.7.2017 से 26.9.2017 तक विभिन्न तिथियों पर औद्योगिक विवाद अधिनियम 1947 की धारा 10 उपधारा (1) (ड़ी) एवं (2) (ए) के अन्तर्गत प्रदत्त शक्तियों के अनुसरण में उपर्युक्त सातों प्रार्थीगण के संबंध में औद्योगिक विवाद इस अधिकरण को न्यायनिर्णयन हेतु संदर्भित किये गये। जिन्हें सुविधा की दृष्टि से निम्नानुसार समेकित कर वर्णित किया जा रहा है : –

> ''क्या प्रबंधन, पंजाब नेशनल बैंक, जयपुर के कर्मकार (1) श्री दिवान सिंह बिष्ट पुत्र श्री धन सिंह बिष्ट, (2) श्री मुकेश सैनी पुत्र श्री भंवरलाल सैनी, (3) श्री दिलीप यादव पुत्र श्री सागरमल यादव, (4) श्री ठाकुर सिंह बिष्ट पुत्र श्री धरम सिंह

बिष्ट, (5) श्री मदन सिंह पुत्र श्री धरम सिंह ड्राईवर को दिनांक 05.08.2016 के द्वारा तथा (6) मनिन्दर कुमार मीना पुत्र श्री सुरेश कुमार मीणा ड्राईवर जो कथित दिनांक 01/10/2010 से 05/08/2016 तक कार्यरत था और (7) श्री इन्द्रजीत यादव पुत्र श्री मक्खन लाल यादव, ड्राईवर को 01.03.2013 से 20.4.2016 तक लगातार कार्य करने के बाद नौकरी से निकाला जाना न्यायोचित एवं न्यायसंगत है? यदि नहीं तो कर्मकार किस अनुतोष को पाने के अधिकारी हैं?''

2. पक्षकारों की समानता व तथ्यों की एकरूपता को दृष्टिगत रख इन प्रकरणों को समेकित कर एकीकृत अधिनिर्णय पारित किया जा रहा है।

3. उपर्युक्त संदर्भित विवादों के प्राप्त होने पर अधिकरण द्वारा उभयपक्ष को सूचना पत्र जारी कर आहूत किया गया एवं दिनांक 27.9.2017 को प्रार्थीगण की और से श्री सी.डी.चतुर्वेदी उपस्थित हुए और आश्वस्त किया कि आगामी तिथि पर वह प्रार्थीगण की और से अधिकार पत्र तथा दावे के अभिकथन प्रस्तुत करेगे। उसी दिन विपक्षी के प्रतिनिधि श्री सुरेन्द्र सिंह ने भी उपस्थित होकर अधिकार पत्र प्रस्तुत किया। तदुपरान्त प्रार्थीगण की और से लगातार कोई भी उपस्थित नहीं हुआ।

4. दिनांक 8.1.2019 को चूंकि प्रार्थीगण की और से किसी ने भी प्राधिकार पत्र एवं दावे का अभिकथन प्रस्तुत नहीं किया था, इसलिये प्रार्थीगण को पुनः रजिस्टर्ड नोटिस जारी करने का आदेश दिया गया। किन्तु 18.6.2019 को कार्यालय द्वारा, रजिस्टर्ड ए.डी. नोटिस जारी करने के स्थान पर अधिकरण में उपस्थित श्री अनिल माथुर नामक व्यक्ति जिसने स्वंय को महासचिव पी.एन. बी. वर्कर्स ऑर्गेनाईजेशन का महासचिव होना बताया था, को व्यक्तिगत रूप से नोटिस दे दिये गये। किन्तु दिनांक 8.8.2019 को भी प्रार्थीगण की और से कोई उपस्थित नहीं हुआ और न हीं दावें का अभिकथन प्रार्थीगण की और से प्रस्तुत किया गया। चूंकि उक्त व्यक्ति (श्री अनिल माथुर) के प्रार्थी श्रमिक संघ का महासचिव होने का कोई प्रमाण अधिकरण के समक्ष नहीं था, इसलिये प्रार्थी पक्ष को रजिस्टर्ड नोटिस जारी करने का पुनः निर्देश दिया गया। ये रजिस्टर्ड नोटिस सीजीआईटी प्रकरण संख्या 20/2017 में उपर्युक्त अन्य 6 प्रकरणों (21/17, 22/17, 26/17, 29/17, 32/17 व 39/17) के नोटिस सहित एक ही लिफाफे में रजिस्टर्ड डाक से प्रेषित किये गये। किन्तु जारी किया गया यह नोटिस डाक विभाग के इस पृष्ठाकंन सहित अधिकरण को वापस प्राप्त हो गया कि ''बार–बार जाने पर प्राप्तकर्त्ता के यहां ताला लगा रहता है, अतः वापस''। इस तथ्यात्मक परिदृश्य में यह अधिकरण इस तथ्य से सन्तुष्ट है कि प्रार्थीगण की और से महासचिव पी.एन.बी. वर्क्स ऑर्गेनाईजेशन को न केवल इस अधिकरण द्वारा जारी सूचना पत्र की जानकारी हो चुकी है वरन् श्रम मन्त्रालय, भारत सरकार नई दिल्ली द्वारा विभिन्न तिथियों पर रजिस्टर्ड डाक से जारी आदेशों की भी या तो जानकारी है अथवा उन्हें प्राप्त हो चुका है। इस निष्कर्ष की पुष्टि दिनांक 27.9.2017 को प्रार्थीगण की और से श्री सी.डी.चतुर्वेदी नामक व्यक्ति के उपस्थित होने और प्रार्थीगण की और से प्राधिकार पत्र एवं दावे का अभिकथन प्रस्तुत करने के आश्वासन से भी होती है। कालान्तर में प्रार्थी श्रमिक संघ द्वारा अपने दिये पते पर या तो कार्यकलाप/निवास करना बन्द कर दिया गया और या अपना पता परिवर्तित कर लिया गया, इस प्रकार किसी जानकारी के अभाव में यह अधिकरण प्रार्थीगण को उपस्थिति हेतु आहूत करने और दावे का अभिकथन प्रस्तुत करने का निर्देश देने हेतु असमर्थ हो गया है।

5. उपर्युक्त स्थिति में यह उपधारित किया जाना नितान्त न्यायोचित है कि प्रार्थीगण अब इस प्रकरण का अग्रसरण दावे का अभिकथन प्रस्तुत करते हुए नहीं करना चाहते है या उनके तथा विपक्षी प्रबंधन के मध्य विवाद शेष न रहने के कारण कोई अनुतोष प्राप्त करने की इच्छा शेष नहीं रहीं है।

6. प्रार्थीगण द्वारा दावे का अभिकथन प्रस्तुत न करने पर अधिकरण इस विवाद का न्यायनिर्णयन गुणागुण के आधार पर करने में समर्थ नहीं है। अतः सन्दर्भित विवादों को इसी प्रकार उत्तरित किया जाता है।

7. अधिनिर्णय तदनुसार पारित किया जाता है। श्रम मन्त्रालय द्वारा इस मामले में न्यायनिर्णयन हेतु प्रेषित विवादों का उत्तर उपर्युक्तानुसार दिया जाता है।

8. अधिनिर्णय की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17 (1) के अन्तर्गत प्रकाषनार्थ प्रेषित की जावे।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 17 जनवरी, 2020

का.आ. 110.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91 क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए **हिंदुस्तान पेट्रोलियम कारपोरेशन लिमिटेड** के नियमित कर्मचारियों को एतदद्वारा उक्त अधिनियम के प्रचालन से छूट प्रदान करती है। यह छूट इस अधिसूचना के जारी होने की तारीख से एक वर्ष की अवधि तक लागू रहेगी।

2. यह छूट निम्नलिखित शर्तों के अध्यधीन है, अर्थात्:-

(1) प्रतिष्ठान छूट प्राप्त कर्मचारियों के नाम और पदनाम दर्शाते हुए कर्मचारियों का रजिस्टर बनाएगा;

(2) कर्मचारी उक्त अधिनियम के अधीन ऐसे लाभ प्राप्त करते रहेंगे जिनके वे इस अधिसूचना द्वारा मंज़ूर छूट के प्रचालन की तारीख से पहले अदा किए गए अंशदान के आधार पर हकदार होते;

(3) छूट प्राप्त अवधि का अंशदान, यदि पहले ही अदा कर दिया गया हो, लौटाया नहीं जाएगा;

(4) उक्त कारखाने या प्रतिष्ठान का नियोक्ता उस अवधि के संबंध में जिसके दौरान वह कारखाना उक्त अधिनियम के प्रचालन के अध्यधीन था (जिसे इसमें इसके पश्चात उक्त अवधि कहा गया है), ऐसे प्ररूपों में तथा ऐसे विवरण वाली विवरणी प्रस्तुत करेगा जो इससे कर्मचारी राज्य बीमा (सामान्य) विनियम, 1950 के अंतर्गत उक्त अवधि के संबंध में देय थीं;

(5) उक्त अधिनियम की धारा 45 की उप-धारा (1) के अंतर्गत निगम द्वारा नियुक्त कोई सामाजिक सुरक्षा अधिकारी या इसके द्वारा इस निमित्त प्राधिकृत निगम का कोई अन्य कार्मिक निम्न प्रयोजनों के लिए–

(क) उक्त अवधि के लिए उक्त अधिनियम की धारा 44 की उप-धारा (1) के अंतर्गत प्रस्तुत किसी विवरणी में उल्लिखित विवरणों का सत्यापन करेगा; अथवा

(ख) पता लगाएगा कि उक्त अवधि के लिए रजिस्टर और रिकार्ड कर्मचारी राज्य बीमा (सामान्य) विनियम, 1950 की यथा अपेक्षानुसार बनाए गए थे या नहीं; अथवा

(ग) पता लगाएगा कि इस अधिसूचना के अंतर्गत दी जा रही मंज़ूरी के विचाराधीन कर्मचारी, नियोक्ता द्वारा नकदी और वस्तु-रूप में प्रदत्त लाभों के हकदार बने रहते हैं या नहीं; अथवा

(घ) पता लगाएगा कि निम्न हेतु सशक्त किए जाने वाले उक्त कारखाने के संबंध में इन उपबंधों के लागू रहने की अवधि के दौरान अधिनियम के किसी उपबंधों का पालन किया गया था या नहीं–

(i) मूल या आसन्न नियोक्ता उससे इस अधिनियम के प्रयोजनार्थ ऐसी सूचना की अपेक्षा करे जिसे वह इस अधिनियम के प्रयोजनार्थ आवश्यक समझता हो; या

(ii) ऐसे मूल या आसन्न नियोक्ता द्वारा अधिकृत किसी कारखाने, प्रतिष्ठान, कार्यालय या अन्य परिसरों में किसी उचित समय पर प्रवेश करे तथा उसके प्रभारी पाए गए किसी व्यक्ति से अपेक्षा करे कि वह कार्मिकों के नियोजन और मजदूरी के भुगतान से संबंधित लेखे, बहियां और अन्य दस्तावेज इस निरीक्षक या अन्य अधिकारी के समक्ष पेश करे और जांच करने दे अथवा ऐसी सूचना उसके समक्ष पेश करे जिसे वह आवश्यक समझे; या

(iii) ऐसे कारखाने, प्रतिष्ठान, कार्यालय या अन्य परिसर में पाए गए मूल या आसन्न नियोक्ता, उसके एजेन्ट या नौकर, या किसी व्यक्ति अथवा किसी ऐसे व्यक्ति की जांच करे जिसे उक्त निरीक्षक या अन्य कार्मिक, कर्मचारी मानने का यथोचित कारण रखता हो; या

(iv) ऐसे कारखाने, प्रतिष्ठान, कार्यालय या अन्य परिसर में बनाए गए किसी रजिस्टर, बही-खाते या अन्य दस्तावेज की प्रतियां बनाए या उद्धरण ले; या

(v) यथा विनिर्दिष्ट अन्य शक्तियों का प्रयोग करे।

(6) विनिवेश और निगमीकरण के मामले में, प्रदान की गई छूट निरस्त मानी जाएगी तथा तत्पश्चात नई कंपनी छूट के लिए समुचित सरकार के समक्ष आवेदन कर सकती है।

[सं. एस-38014/14/2013-एसएस-I]

मदन चौरसिया, अवर सचिव

New Delhi, the 17th January, 2020

S.O. 110.—In exercise of the powers conferred by section 88 read with section 91 A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of the **Hindustan Petroleum Corporation Limited** from the operation of the said Act. The exemption shall remain in force for a period of one year from the date of issue of this notification.

2. The exemption is subject to the following conditions, namely:-

(1) the establishment shall maintain a register of the employees specifying the names and designations of the exempted employees;

(2) the employees shall continue to receive such benefits under the said Act to which they would have been entitled to on the basis of the contribution paid prior to the date from which exemption granted by this notification operates;

(3) the contribution for the exempted period, if already paid, shall not be refundable;

(4) the employer of the said factory or establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;

(5) any Social Security Officer appointed by the Corporation under sub-section (1) of section 45 of the said Act or other official of the Corporation orporatiz in this behalf by it, shall, for the purpose of—

(a) verifying the particulars contained in any return submitted under sub-section (1) of section 44 of the said Act for the said period; or

(b) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(c) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(d) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to—

(i) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or

(ii) enter at any reasonable time, any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or

(iii) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee ; or

(iv) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises; or

(v) exercise such other powers as may be specified.

(6) in case of disinvestment or orporatization, the exemption granted shall stand cancelled and then the new entity may apply to the appropriate Government for exemption.

[No. S-38014/14/2013-SS-I]
MADAN CHAURASIA, Under Secy.

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